STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company	**:**	
	:	
Petition for approval of delivery services tariffs and of residential delivery services implementation plan, and for approval of certain other amendments and additions to its rates, terms and conditions.	**:**	**01-0423**

ADMINISTRATIVE LAW JUDGE'S PROPOSED ORDER

March 21, 2003

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By the Commission:

PROCEDURAL HISTORY

On December 16, 1997, as part of Public Act 90-561, the Electric Service Customer Choice and Rate Relief Law of 1997, was signed into law amending the Illinois Public Utilities Act (the "Act") by adding a new Article XVI. Included among the amendments to the Act was the addition of Sections 16-104 and 16-108, which address utilities' obligations to offer delivery services, and the rates, terms, and conditions under which those services are offered to both residential and non-residential customers.

Section 16-108(a) requires electric utilities to file delivery service tariffs ("DSTs") with the Illinois Commerce Commission (the "Commission") at least 210 days prior to the date the Act requires a utility to offer such delivery services to retail customers. Pursuant to Article IX, the Commission has the authority to review, approve and modify the prices, terms and conditions of the filed DSTs not subject to Federal Energy Regulatory Commission ("FERC") jurisdiction. Section 16-108(b) requires the Commission to enter an order approving, or approving as modified, cost-based DSTs no later than 30 days prior to the date such services will be offered. Section 16-104 requires utilities to offer delivery services to residential customers no later than May 1, 2002.

Further, Section 16-105 provides that:

> To ensure the safe and orderly implementation of delivery services, each electric utility shall submit to the Commission no later than ... August 1, 2001, a delivery services implementation plan for residential customers. The delivery services implementation plan shall detail the process and procedures by which each electric utility will offer delivery

> services to each customer class and shall be designed to insure an orderly transition and the maintenance of reliable service. The Commission shall enter an order approving, or approving as modified, the delivery services implementation plan of each electric utility no later than 60 days prior to the date on which the electric utility must commence offering such services.

On June 1, 2001, Commonwealth Edison Company ("ComEd", "Edison" or "the Company") filed a Petition (the "Petition") with the Commission that requested the approval of: (1) a delivery services implementation plan for residential customers; (2) new tariff provisions offering delivery services to residential customers who are eligible for delivery services May 1, 2002; (3) revised and new tariffs for the provision of delivery services to eligible non-residential customers; and (4) other tariffs and tariff amendments. ComEd filed the Petition pursuant to the Act, as amended by Public Act 90-561. When ComEd filed its Petition, it also filed the proposed direct testimony of 20 witnesses who are identified below.

Pursuant to notice given in accordance with the law and the rules and regulations of the Commission, prehearing conferences were held in this matter before duly authorized Administrative Law Judges (the "ALJs") of the Commission at its offices in Chicago, Illinois, on June 28, August 28, September 4, September 6, September 13, September 18, September 20, September 25, September 27, October 17, October 26, and October 31, 2001. Evidentiary hearings were held on November 1-2, November 5-9, and November 13-16, 2001, at the offices of the Commission in Chicago, Illinois. At the conclusion of the hearings, on November 16, 2001, the ALJs marked the record "Heard and Taken."

Petitions for Leave to Intervene were filed on behalf of AES NewEnergy, Inc. ("AES NewEnergy"), People of the State of Illinois (the "Attorney General" or "AG"), the Association of Illinois Electric Cooperatives ("AIEC"), Blackhawk Energy Services, LLC ("Blackhawk Energy"), Building Owners and Managers Association of Chicago ("BOMA"), Central Illinois Light Company ("CILCO"), the Cook County State's Attorney's Office ("CCSAO"), the Citizens Utility Board ("CUB"), Dominion Retail, Inc. ("Dominion"), the United States Department of Energy ("DOE"), Enron Energy Services, Inc. ("Enron"), Environmental Law and Policy Center ("ELPC"), Exelon Energy Company ("Exelon Energy"), Illinois Industrial Energy Consumers ("IIEC"), Illinois Power Company ("IP"), MidAmerican Energy Company ("MEC" or "MidAmerican"), Midwest Generation, LLC ("Midwest"), National Energy Marketers Association ("NEMA"), Nicor Energy, LLC ("Nicor"), Peoples Energy Service Corporation ("Peoples"), Midwest Energy Alliance, LLC, and TrizecHahn Office Properties, Inc. ("TrizecHahn"). These petitions were granted by the ALJs. An appearance was filed by the City of Chicago (the "City"). Dominion subsequently moved to withdraw from this proceeding and was permitted to do so by the ALJs. Midwest Energy Alliance, LLC filed a petition to intervene after the record was closed, which petition was also granted. On February 21, 2002, Enron filed a Notice of Withdrawal of its Intervention from this proceeding. (CUB, the CCSAO, and the City are also referred to herein as "CUB/City/Cook").

The following witnesses testified on behalf of ComEd in Phase I of the proceeding ("Phase I"), prior to the initiation of the audit described below: Lawrence S. Alongi, Director, Distribution Pricing; Michael F. Born, P.E., Consulting Engineer, Distribution Planning Department; Sally T. Clair, Vice President, Technical Services, Training, and Safety; Paul R. Crumrine, Director, Regulatory Strategies & Services; Christopher Lee Culp, Ph.D., Principal and Managing Director at CP Risk Management LLC; David G. DeCampli, Vice President, Engineering & Technical Analysis; John E. Ebright, C.P.A., Controller; Kenneth Gordon, Special Consultant with National Economic Research Associates, Inc.,("NERA") and former Chair of the Massachusetts and Maine Public Utility Commissions; Alan C. Heintz, Vice President at R.J. Rudden Associates, Inc.; David R. Helwig, P.E., Executive Vice President, Energy Operations; Jerome P. Hill, Director of Revenue Requirements; Arlene A. Juracek, P.E., Vice President, Regulatory and Strategic Services; Sharon M. Kelly, P.E., Senior Rate Specialist; Kathleen D. Leitzell, Director, Open Access Implementation; Jeff D. Makholm, Ph.D., Senior Vice President of NERA, Inc.; Calvin K. Manshio, Partner, Manshio and Wallace; Michael J. Meehan, Information Services/Open Access Director; Richard F. Meischeid, II, Principal of Towers Perrin; Steven T. Naumann, P.E., Transmission Services Vice President; Sam Peltzman, Ralph and Dorothy Keller Distinguished Service Professor of Economics in the Graduate School of Business, The University of Chicago; Daniel E. Thone, Director of Planning & Analysis; Philip E. Voltz, Director, New Residential Construction Group, Exelon Infrastructure Services; Jennifer T. Sterling, P.E., Director of Tariff Administration, Transmission Services Department; Pamela B. Strobel, now Chair; and James B. Williams, Ph.D., Vice President, Project and Contract Management.

The following witnesses testified on behalf of the Commission Staff ("Staff") in Phase I: David A. Borden, Economic Analyst in the Energy Division; Carolyn Bowers, Accountant in the Accounting Department of the Financial Analysis Division, ("FAD"); Janis Freetly, Financial Analyst in the Finance Department of FAD; Garret E. Gorniak, Accounting Supervisor in the Accounting Department of FAD; Cheri L. Harden, Rate Analyst in the Rates Department of FAD; Burma C. Jones, Accountant in the Accounting Department of FAD; Bruce A. Larson, P.E., Senior Energy Engineer in the Engineering Department of the Energy Division; Peter Lazare, Senior Economic Analyst in FAD; Mike Luth, Rate Analyst in the Rates Department of FAD; Alan S. Pregozen, CFA, Director of the Finance Department of FAD; Bryan C. Sant, Accountant in the Accounting Department of FAD; and Eric P. Schlaf, Ph.D., Economist in the Energy Division.

Blackhawk Energy, Enron, and AES NewEnergy referred to themselves in this proceeding as the "ARES Coalition." The following witnesses testified on behalf of the ARES Coalition in Phase I: Philip R. O'Connor, Ph.D., Vice President of AES

NewEnergy, Inc.; Richard S. Spilky, Director of Pricing and Product Development of AES New Energy, and Marc L. Ulrich, Risk Manager, Utility and Tariff Risk Management of Enron Corp.

BOMA's witness in Phase I was Sheree L. Brown, Managing Principal of SVBK Consulting Group, Inc.

CILCO's witness in Phase I was Keith E. Goerss, Director of Sales.

In addition to presenting witnesses jointly, as noted below, the City presented the testimony of Steven Walter, Deputy Commissioner for Energy Management in its Department of Environment in Phase I.

DOE's witness in Phase I was Dale E. Swan, Ph.D., Senior Economist and Principal with Exeter Associates, Inc.

The AG, the City, CCSAO, and CUB referred to themselves as the "Government and Consumer Parties" or "Government and Consumer Intervenors ("GCI"). GCI's witnesses in Phase I were Edward C. Bodmer, Consultant; David J. Effron, Consultant; and David A. Schlissel, Senior Consultant at Synapse Energy Economics, Inc.

IIEC's witnesses in Phase I were Alan Chalfant and Robert R. Stephens, Consultants with Brubaker & Associates, Inc.

Midwest's witnesses in Phase I were John T. Long, Vice President and Chief Technical Officer; Phillip W. McLeod, Principal with LECG LLC; and George R. Schink, Ph.D., Director with LECG LLC.

NEMA's witness in Phase I was Craig G. Goodman, President.

TrizecHahn's witness in Phase I was Lawrence Haynes, Account Manager for CILCO.

Testimony, Pre-Hearing Motions and Rulings

With the filing of its Petition and direct testimony on June 1, 2001, ComEd also filed a motion for a protective order, to which various parties responded. On July 18, 2001, the ALJs issued a ruling with respect to ComEd's motion. GCI and the ARES Coalition then filed an initial petition for an interlocutory review of that ruling. On August 22, 2001, the Commission granted that petition for interlocutory review. The ALJs subsequently issued a revised ruling on ComEd's motion for a protective order that provided procedures for designating documents and information as "confidential" and "confidential and proprietary" in connection with this proceeding. ComEd subsequently filed five separate motions for the treatment of documents as confidential or confidential and proprietary. The ARES Coalition also filed a similar motion. The ALJs held hearings with respect to these motions at various times, both prior to the initiation of the evidentiary hearings on November 1, 2001, and during the evidentiary hearings themselves. GCI, ARES Coalition, and the ELPC filed a petition for interlocutory review of the ALJs' ruling upholding the Protective Order. The Commission denied this petition, as untimely filed.

ComEd, filed its direct testimony in conjunction with its Petition on June 1, 2001. On August 23, 2001, Staff, the ARES Coalition, DOE, IIEC, GCI, the City (individually, and not part of GCI), Midwest, and NEMA filed direct testimony. Exelon Energy also filed direct testimony, but subsequently asked to withdraw that testimony. On September 6, 2001, GCI filed direct testimony of Edward C. Bodmer and Staff filed proposed supplemental direct testimony of Janis Freetly. GCI filed supplemental direct testimony of David J. Effron and David A. Schlissel on September 14 and 17, 2001, and Staff filed supplemental direct testimony of Garret E. Gorniak and Bryan C. Sant on September 19, 2001.

ComEd filed its rebuttal testimony on September 18 and 21, 2001, and its supplemental rebuttal testimony on October 2, 2001. Staff and other parties filed their proposed rebuttal testimony on October 16, 2001, and GCI subsequently filed supplemental rebuttal of David J. Effron on October 19, 2001. ComEd filed its surrebuttal testimony on October 24, 2001. Staff filed the supplemental rebuttal testimony of Janis Freetly on November 13, 2001. Parties filed proposed corrections to the testimony of various witnesses.

Several parties filed motions to strike testimony prior to the initiation of the hearings. ComEd filed a motion to strike portions of the rebuttal testimony of ARES Coalition witnesses O'Connor and Spilky, which the ALJs granted. ComEd also filed a motion to strike portions of the direct testimony of David A. Schlissel, which the ALJs also granted. An interlocutory appeal was taken from this latter ruling, which was denied. CCSAO filed a motion to strike portions of the Direct testimony of ComEd witnesses Culp, Peltzman, Thone, and Juracek, which the ALJs denied. An interlocutory appeal was taken from this ruling, which also was denied. The ARES Coalition filed a motion to strike portions of ComEd's petition and testimony regarding proposed revisions of non-residential delivery service rates. The ALJs denied this motion. This ruling also was the subject of an interlocutory appeal that was denied. During the evidentiary hearings, the ARES Coalition moved to strike portions of the testimony of Arlene Juracek that responded to a portion of witnesses' testimony that had been previously stricken, which motion was granted. Finally, the CCSAO filed a motion to admit certain reports identified as the Vantage and Liberty Reports into the record, which the ALJs denied. An interlocutory appeal from this ruling also was denied.

After the evidentiary hearings, ComEd, Staff, GCI, IIEC, the ARES Coalition, Midwest, DOE, TrizecHahn, BOMA, NEMA, MidAmerican, and Nicor filed initial briefs. Reply briefs were filed by ComEd, Staff, GCI, IIEC, the ARES Coalition, Midwest, TrizecHahn, BOMA, NEMA, and Nicor. Draft proposed orders were filed by ComEd, ARES coalition, Midwest, DOE, and TrizecHahn. GCI subsequently filed a corrected reply brief. The ALJs Proposed Order was then circulated to the parties.

ComEd's Petition also requested approval of a delivery services implementation plan for residential customers, which was filed pursuant to Section 16-105. Section 16-105 required ComEd to submit to the Commission a delivery services implementation plan for residential customers no later than August 1, 2001. The delivery services implementation plan was approved in a separate order of this Commission. On January 23, 2002, certain Joint Movants filed a Joint Motion to Modify Schedule and for Related Relief (the "Joint Motion"). The Joint Motion requested the Commission to enter an interim order determining a delivery service revenue requirement and setting residential delivery service rates based on the record in this proceeding by April 1, 2002, in order to comply with the mandate in Section 16-104 of the Act, which requires utilities to offer delivery services to residential customers no later than May 1, 2002, and in order to comply with the mandate in Section 16-108(b) and (c) of the Act, which requires the Commission to enter an order approving, or approving as modified, cost-based DSTs no later than thirty days prior to the date such services will be offered. The Joint Motion further requested the Commission to continue this proceeding for the Commission to make a final determination of the delivery services revenue requirement and both residential and nonresidential delivery service rates based on evidence already in the record as well as evidence related to the results of the Audit directed by the Commission in Docket 01-0664. The ALJs conducted a hearing in connection with this Motion on January 25, 2002. Responses were filed to the Joint Motion on January 29, 2002. Replies were filed on February 1, 2002. The Commission granted the Joint Motion on February 6, 2002.

As explained in their motion, the Joint Movants agreed, subject to the Commission's approval, to a process in which an audit would occur and the record then would be re-opened in this Docket in what is referred to herein as Phase II of this proceeding ("Phase II") in order to permit the receipt of relevant evidence regarding or contesting the audit. The audit report itself would be admitted in evidence through one or more legally competent sponsoring witnesses (the auditor itself would not be a party), with all parties reserving the right to contest the validity and correctness of the audit's findings. Under the agreement, the Joint Movants would not contest the admission of the report through such a witness. All parties would be permitted to introduce evidence from their own witnesses in addressing or contesting the audit report and the auditor witness(es)' evidence. All parties would be permitted to conduct cross-examination, including of the auditor witness(es) as well as the parties' witnesses, at a further appropriate evidentiary hearing conducted in this Docket before the ALJs in accordance with the applicable law. The ALJs and the parties then would follow the standard process under the Commission's rules: post-hearing briefing (with, at the ALJs' discretion, party-drafted proposed orders), an ALJs' proposed order, exceptions, and replies, culminating in the Commission's entry of a final Order. The Joint Movants' agreement was conditional in that, as more fully set forth in their motion, the Joint Movants waived neither any rights to pursue any and all other appropriate relief in the further proceedings to be conducted in this Docket nor any rights in relation to any other pending or future proceeding, whether before the Commission or otherwise, and in that the Joint Movants entry into and support of the Motion was not to be understood as an admission of any kind on their respective parts.

ComEd filed a Draft Administrative Law Judges' Proposed Interim Order Approving With Modifications Residential Delivery Services Tariffs of Commonwealth Edison Company. ComEd's draft Interim Order proposed establishing tariffs, without prejudice to the further proceedings in this Docket.

On April 1, 2002, the Commission entered an Interim Order approving with certain modifications the Company's residential delivery service tariffs. On April 10, 2002, the Commission entered an Amendatory Interim Order making certain mathematical corrections to the April 1, 2002 Interim Order. The final tariffs approved by the Interim Order complied with the specific mandates of Sections 16-104 and 16-108 of the Act as well as with the requirement that delivery service tariffs be just and reasonable as to residential customers under Section 16-108 and Section 9-201(c). The tariffs permitted the election of delivery services by residential customers beginning on May 1, 2002 on terms and conditions that are appropriate.

In entering the Interim Order, the Commission made no finding as to how it would have ruled in the absence of the Joint Motion on any issue that remained pending in this Docket. All such issues were to be addressed in further proceedings to be conducted in Phase II of this proceeding.

On October 10, 2002, the Audit directed by the Commission in Docket 01-0664 was completed and the auditor's final report was submitted. In December 2002, in accordance with a schedule established by the Administrative Law Judges, the auditor served pre-filed testimony on all parties authenticating a copy of the audit report.

On February 3, 2003, direct testimony responding to the Audit was filed in Phase II of this proceeding.

Testimony of the following witnesses was submitted on behalf of ComEd in Phase II: Robert W. Donohue, recently retired Senior Vice President of Consolidated Edison Company; Karl A. McDermott, Vice President of National Economic Research Associates; Robert K. McDonald, Vice President, Risk Management, of ComEd's parent corporation, Exelon Corporation; Ron Williams, Vice President of EXL Consulting; Professor Morton I. Kamien from Northwestern's Kellogg Graduate School of Management, Morris Jacobs, a utility consultant; Daniel Halpin, Head of Purdue University's Division of Construction Engineering and Management; Dr. James B. Williams, formerly ComEd's Vice President, Project and Contract Management; Michael F. Born, P.E, Consulting Engineer with ComEd's Distribution Planning Department; Kathyrn Houtsma , ComEd's Vice President, Finance; Joseph Frangipane, CPA, former Director of the Federal Energy Regulatory Commission's Audit Division; Jerome P. Hill, ComEd's Director of Revenue Requirements, and Paul R. Crumrine, ComEd's Director of Regulatory Strategies and Services.

GCI submitted the testimony of David J. Effron, Consultant in Phase II.

Staff submitted testimony of Bryan C. Sant and Mike Luth in Phase II.

Rebuttal testimony of the following witnesses was submitted on behalf of ComEd in Phase II on February 28, 2003: Paul R. Crumrine ; Karl A. McDermott ; Ron Williams; Michael F. Born, P.E.; and Jerome P. Hill.. On the same date, GCI submitted the rebuttal testimony of Mr. Effron and the Staff submitted the rebuttal testimony of Bryan C. Sant ; Scott A. Struck; Burma C. Jones; Bruce A. Larson, P.E.; and Mike Luth. Liberty submitted the rebuttal testimony of John Antonuk and Robert Stright and John Antonuk and Dennis M. Kalbarczyk .

On March 4, 2003, ComEd, with the support of the following Intervenors (CUB, the City, CCSAO, AES NewEnergy, BOMA, TrizecHahn, Blackhawk Energy, MidAmerican, Nicor, CILCO, NEMA, and Peoples, collectively referred to herein with ComEd as the "Movants"), filed a motion to submit a proposed order and to modify the schedule in Phase II to provide for the entry of a final order in this proceeding on March 18, 2003 (the "Movants' motion").

Reply testimony of the following witnesses was submitted on behalf of ComEd in Phase II on March 10, 2003: Paul R. Crumrine; Karl A. McDermott, Ph.D, Robert K. McDonald; Dr. James B. Williams; Michael F. Born, P.E.; and Jerome P. Hill .

Motion for Final Order

The Movants have each signed a stipulation supporting ComEd's motion and setting forth various terms and conditions under which they have (1) waived their rights to offer additional testimony or other evidence, cross examine witnesses, brief or argue the issues or for any other type of process; (2) supported the proposed order submitted with the motion to form the basis of the Commission's order in the docket. As to CUB/City/Cook, their support for the March 4, 2003 motion to submit a proposed order and modify the schedule, and their willingness to enter into the above-referenced stipulation is predicated on an agreement entered into by ComEd and CUB/City/Cook to settle this case and other matters. The Commission is advised that this agreement is the basis for CUB/City/Cook's position that it neither supports nor opposes many of the conclusions in this order. ComEd and CUB/City/Cook are not requesting the Commission approve their agreement and, as set forth herein, the Commission does not enter the order based on any agreement of the parties, but on the basis of evidentiary record.

On March 12, 2003, the Commission modified the schedule, and in accordance with that modified schedule, an evidentiary hearing was held on March 17, 2003. At the hearing, the testimony submitted by ComEd, Liberty, GCI, and Staff after the Interim Order was admitted into evidence, together with all of the attachments thereto. On March 18, 2003, the record was marked "Heard and Taken." In addition, each of the Movants other than ComEd and CUB/City/Cook, moved in writing to withdraw all arguments and testimony made by such party that are contrary to the conclusions as set forth in the proposed order. This motion was granted and the subject testimony was withdrawn from the record.

On March 21, 2003, the ALJ's Proposed Order was duly served on the parties. A Briefing Schedule for Briefs on Exceptions and Replies to Exceptions was set forth in the Proposed Order.

As indicated below, even though different positions have been taken in the course of this proceeding, the parties as part of the agreement noted above have agreed to either support or not oppose in the terms set forth herein. We note that such actions will further certainty in pricing and other regulatory matters, and we acknowledge the value of such certainty for all parties – not only the parties in this proceeding, but also those parties to the other proceedings referenced below. In particular, we note that such certainty helps promote efficient competition, which furthers the goals established for the Commission by the General Assembly in Section 16-101A(d) of the Act. Additionally, we find value in shortening this proceeding as well as reducing both the costs to the parties and the administrative burden on the Commission; actions that comport with the policy of efficiency set forth in Section 200.25 of the Commission's rules.

I. Legal Issues and Standards for Decision

A. Substantive Standards and Policies Governing Requested Rates

As in any contested rate proceeding, this order must be within the Commission's jurisdiction and authority, must lawfully implement the substantive mandates the General Assembly stated in the Act, and must be based exclusively on the evidence in the record. 220 ILCS 5/10-103, 10-201(e)(iv); *Business and Professional People for the Public Interest v. Illinois Commerce Commission*, 136 Ill. 2d 192, 201, 227, 555 N.E.2d 693, 697, 709 (1989) ("*BPI 1989*" or "*BPI I*"). The Act provides that "Charges for delivery services shall be cost based, and shall allow the electric utility to recover the costs of providing delivery services through its charges to its delivery service customers that use the facilities and services associated with such costs. Such costs shall include the costs of owning, operating and maintaining transmission and distribution facilities. 220 ILCS 5/16-108(c). Further, and as the Company correctly states, ComEd bears the burden of proof that its proposed new and revised delivery services tariffs are just and reasonable. 220 ILCS 5/9-201(c).

ComEd's DSTs and tariff revisions were filed pursuant to Section 16-108, wherein utilities are required to file tariffs for the provision of delivery services, and other Sections of the Act. Section 16-102 of the Act defines "Delivery Services" as:

> …those services provided by the electric utility that are necessary in order for the transmission and distribution systems to function so that retail customers located in the

> electric utility's service area can receive electric power and energy from suppliers other than the electric utility, and shall include, without limitation, standard metering and billing services.

Section 16-108(a) specifies that:

> An electric utility shall provide the components of delivery services that are subject to the jurisdiction of the Federal Energy Regulatory Commission at the same prices, terms and conditions set forth in its applicable tariff as approved or allowed into effect by that Commission. The Commission shall otherwise have the authority pursuant to Article IX to review, approve and modify the prices, terms and conditions of those components of delivery services not subject to the jurisdiction of the Federal Energy Regulatory Commission, including the authority to determine the extent to which such delivery services should be offered on an unbundled basis.

Section 16-108(d) states that:

> The Commission shall establish charges, terms and conditions for delivery services that are just and reasonable and shall take into account customer impacts when establishing such charges. In establishing charges, terms and conditions for delivery services, the Commission shall take into account voltage level differences.

In addition, Section 16-108(c) provides that "charges" for delivery services "shall be cost based, and shall allow the electric utility to recover the costs of providing delivery services through its charges to its delivery services customers that use the facilities and services associated with such costs." 220 ILCS 5/16-108(c). These costs include "the costs of owning, operating and maintaining transmission and distribution facilities." Section 16-108(c) also provides that the electric utility shall recover the costs of installing, operating or maintaining facilities for the particular benefit of one or more delivery services customers directly from the retail customer or customers for whose benefit the costs were incurred, to the extent the charges are not recovered through the generally-applicable DSTs.

The Company, Staff and GCI filed briefs addressing the level of cost recovery provided under section 16-108(c).

ComEd's position is that delivery services charges must be "cost based, and shall allow the electric utility to recover the costs of providing delivery services through its charges to its delivery service customers that use the facilities and services associated with such costs." 220 ILCS 5/16-108(c). The right of a utility to recover fully its costs of providing delivery services follows not only from Section 16-108(c) and the general requirement that rates be just and reasonable under Section 9-201(c), but ComEd asserts, also from underlying principles of constitutional law. 220 ILCS 5/9-201(c); *e.g.*, *Duquesne Light Co. v. Barasch*, 488 U.S. 299 (1989); *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); *Bluefield Waterworks v. Public Service Comm'n*, 262 U.S. 679 (1923).

Staff disagrees that ComEd is entitled to the "opportunity for full cost recovery" of its costs of providing regulated services. It asserts that Section 16-108 provides only that charges for delivery services are to be cost based. It further contends that Section 16-108 does not mandate "full cost recovery" nor does that provision speak to "full" cost recovery. Staff notes that Section 16-108 does require that, when the Commission establishes charges, terms and conditions for delivery services that are just and reasonable, it shall take into account customer impacts. 220 ILCS 6/16-108(d). As such, Staff claims, the plain language of the statute does not support ComEd's assertion that it is <u>entitled</u> to "full recovery" of its costs of providing delivery services". The charges established by the Commission are to be "just and reasonable" and are to take into account "customer impacts" 220 ILCS 5/16-108 (d). Nowhere does that section mandate a cost recovery methodology for delivery service implementation costs which guarantees "full" recovery. Consequently, while utilities are entitled to the opportunity to obtain recovery of their revenue requirements, Staff avers that if out-of-period expenses are not "determinable" with particular certainty, they may not be used to adjust test year expenses or be reflected in rates.

Similarly, GCI argues that the Act does not entitle the Company to "penny for penny" recovery, noting that the Act authorizes the Commission to consider factors such as rate impacts and the prudence of expenditures in setting rates. GCI contends that consideration of such relevant and appropriate factors is at odds with the Company's claim of entitlement to "full recovery" of all of its expenditures.

ComEd replies that Staff's contention that a utility is not entitled to full recovery of its costs of providing delivery services is contrary to the plain language of Section 16-108(c) as well as to the underlying well-established legal principles. Section 16-108(c) mandates that: "Charges for delivery services shall be cost based, and shall allow the electric utility to recover the costs of providing delivery services through its charges to its delivery service customers that use the facilities and services associated with such costs. Such costs shall include the costs of owning, operating and maintaining transmission and distribution facilities." (Emphasis added.) Given the entire "shall allow the electric utility to recover the costs…" clause in the statute, the absence of the word "full" from that clause has no significance. The Act provides for recovery of "the costs", not "some of the costs". Moreover, reading that language not to vest the utility with the right to an opportunity to fully recover its costs is directly contradicted by the Commission's brief on appeal in Docket No. 99-0117.

To be clear, ComEd is entitled to the opportunity to obtain full recovery of its revenue requirement. The determination of ComEd's revenue requirement must also take into account the other factors that the Act requires. Among those factors are the prudence and reasonableness of the costs included in the revenue requirement and their relationship to the utility's provision of delivery services. ComEd's rates must be just and reasonable. Further, in those instances where the Company through *pro forma* adjustments would seek recovery for out of period costs which are not determinable with particular certainty, then in those instances we would agree with Staff and disallow such a recovery.

Section 16-108 also sets forth numerous other requirements with respect to DSTs, including the requirement that tariffs define the customer classes for purposes of delivery services charges and that delivery services be priced and made available to all retail customers electing delivery services in each class on a non-discriminatory basis, regardless of whether the retail customer chooses the electric utility, an affiliate of the electric utility, or another entity as its supplier of electric power and energy.

Other sections of the Act set forth additional requirements pertaining to DSTs and the provision of delivery services. For example, Section 16-104(b) states that:

> The electric utility shall allow the aggregation of loads that are eligible for delivery services so long as such aggregation meets the criteria for delivery of electric power and energy applicable to the electric utility established by the regional reliability council to which the electric utility belongs, by an independent system operating organization to which the electric utility belongs, or by another organization responsible for overseeing the integrity and reliability of the transmission system, as such criteria are in effect from time to time.

Section 16-104(e) provides that, subject to terms and conditions imposed in accordance with Section 16-108, a retail customer that is eligible to elect delivery services may place all or a portion of its electric power and energy requirements on delivery services. Section 16-118(b) requires each electric utility to file a tariff that allows alternative retail electric suppliers certified by the Commission under Section 16-115, meeting all obligations under Section 16-115A, and authorized to provide service in a utility's territory and other electric utilities meeting all obligations under Sections 16-115A and 16-116 other than the host utility (ARES and such other electric utilities other than ComEd are collectively referred to in this Order as "retail electric suppliers", or "RESs") to offer to their customers a single bill covering both the services provided by the RES and the delivery services provided to the customer by the electric utility. Section 16-118(b) further specifies that:

> The tariff filed pursuant to this subsection shall (i) require partial payments made by retail customers to be credited first to the electric utility's tariffed services, (ii) impose

> commercially reasonable terms with respect to credit and collection, including requests for deposits, (iii) retain the electric utility's right to disconnect the retail customers, if it does not receive payment for its tariffed services, in the same manner that it would be permitted to if it had billed for the services itself, and (iv) require the [RES] that elects the billing option provided by this tariff to include on each bill a listing of the charges applicable to such services. The tariff filed pursuant to this subsection may also include other just and reasonable terms and conditions.

Section 16-108 also provides for the imposition and collection of transition charges by the electric utility from delivery services customers. Section 16-102 defines "transition charge" in a manner that sets out a formula by which such charges are to be calculated.

The foregoing is a non-exhaustive list of significant provisions of the Act that are applicable to delivery services. Other statutory provisions that are pertinent to particular issues will be discussed in this Order as necessary.

B. Procedural Issues (e.g., Admissibility) Not Addressed in Specific Arguments

The parties have discussed a number of procedural issues in their briefs. All of these issues have been the subject of separate motions on which rulings have already been made, as discussed in introductory sections of this Order. The Commission adheres to the decisions that it has made previously on petitions for interlocutory review and concludes that the requests for additional procedural relief are without merit and should be denied. Insofar as arguments in the briefs of the ARES Coalition are inconsistent with the Commission's decisions, the ARES Coalition has withdrawn those arguments.

For example, some parties discuss rulings designating documents and information as "confidential" and "confidential and proprietary." GCI repeats its request that the Commission depart from Illinois law and establish its own special standards for affording confidential treatment to documents in future cases. We conclude that this request is inappropriate, that the Commission should follow Illinois law in future cases, just as it did in this proceeding, and that our rulings in this proceeding afford appropriate treatment to confidential documents.

In addition, the ARES Coalition initially contended that the Commission should dismiss this proceeding insofar as it seeks to change non-residential delivery services rates, contending that Section 16-111(a) prohibits changes in the delivery services rates established by the Commission in Docket 99-0117 and that any change in those rates would be a collateral attack on the Commission's prior orders. The ALJs denied the motion to dismiss, concluding that Section 16-111(a) does not freeze non-residential delivery services rates and that no impermissible collateral attack on prior rate orders results when the Commission sets cost-based delivery services rates based on the evidence in the record in this case. The ARES Coalition has withdrawn its arguments to the contrary.

C. Other Policy Issues

The parties have raised a variety of policy issues that they contend should be considered by the Commission in reaching its decisions in this proceeding. Most of these policy issues concern general goals and objectives that the parties believe should guide the Commission in ruling on particular questions. We have taken into account all of the arguments raised by the parties in arriving at our decisions on the questions addressed in the remainder of this Order. Where policy issues have been stressed in connection with arguments on individual questions, those issues are occasionally discussed in the sections of this Order that deal with the specific questions. However, the absence of a discussion of each policy issue in each section in which parties have contended that the issue has some relevance is not an indication that the Commission has failed to consider the question. It merely reflects an effort to avoid repetition and to focus on the specific questions presented by the particular issues for resolution. In this section, we summarize the major policy issues raised by the parties and, where appropriate, include findings or conclusions concerning those issues.

1. Impact on Customers

Several parties discussed the impact of ComEd's proposed rates and tariffs on customers.

GCI's Position

GCI acknowledges that the Commission's determinations in this proceeding will involve a number of policy determinations and decisions that will require a balancing of competing objectives.

GCI noted that ComEd has proposed that all but $183 million of its originally requested $575 million revenue requirement increase be borne by residential delivery services customers. It maintained that under the Company's original proposal, residential delivery service customers would bear more than 56% of the revenue requirement while consuming only 28% of total kWh sales. GCI asserts that few residential customers would select the resulting high per-kWh charges for delivery service and competitive supply over the lower rates for comparable bundled services. Accordingly, GCI asserted that the residential competitive market effectively could close before it opens.

GCI states that non-residential customers also will experience significant (undoubtedly negative) impacts if the original Edison proposal is approved.

Because of the statutory bundled services rate freeze, and relatively unattractive unbundled services prices, GCI acknowledges that many customers will be able to avoid (temporarily) the effect of Edison's proposed rates. However, it asserts that aspects of the Company's original proposal would ultimately affect all ComEd ratepayers, and the effect of the proposed rate base additions will be both significant and long-lived. GCI cautions that future effects are hidden today but are likely to emerge at the end of the rate freeze.

ComEd's Response

ComEd points out that GCI's reference to a $575 million difference between the jurisdictional revenue requirement approved in Docket 99-0117 and initially proposed by the Company in this Docket ignores that the proposed $1,517,000,000 revenue requirement (exclusive of Miscelaneous Revenues) supported by the Movants is substantially lower than ComEd's initial proposal. Moreover, ComEd notes that GCI's complaint here fails to factor in inflation, load growth, or the extent to which the increase reflects ComEd's costs of maintaining and improving the reliability of its delivery services now and going forward.

In addition, ComEd contends that GCI's claim that residential delivery services customers would bear a greater percentage of the revenue requirement than percentage of total kilowatt-hour sales is not relevant. ComEd explains that demand, not kilowatt-hours, is the proper measure for determining the revenue requirement. ComEd also notes that it performed an appropriate cost of service study (using demand) here, thereby permitting it to determine the revenue requirement properly, without cross subsidies. It further contends that GCI's objections to the study were minor and of no consequence.

ComEd notes that the Commission is mandated by the Act to set delivery service charges that are "cost based, and shall allow the electric utility to recover the costs of providing delivery services through its charges to its delivery services customers that use the facilities and services associated with such costs." 220 ILCS 5/16-108(c). The Commission further is directed, among other things, to "establish charges, terms and conditions for delivery services that are just and reasonable and shall take into account customer impacts when establishing such charges." 220 ILCS 5/16-108(d). Although the term "customer impacts" in context should be understood to relate to how the revenue requirement should be allocated among customers, in the most general sense the overall impact of ComEd's proposals in this proceeding simply is better service at little or no increased cost.

ComEd also notes that the alleged adverse impacts that were initially raised by some parties do not exist or are offset by other factors; in many cases, they are nothing other than the elimination or reduction of cross-subsidies between customers; and, in many cases, they are nothing other than the inherent product of the restructuring legislation's mandate that bundled rates be frozen or, in the case of residential customers, reduced by 20%, while delivery service rates are to be cost-based and provide for full cost recovery.

ComEd indicates that any adverse impacts due to the increase in revenue requirement since the Commission's order in Docket 99-0117 are sharply limited by CTC offsets. The Company's evidence in Phase 1 shows that, even with the delivery services charges proposed in its direct case, (which are significantly higher than those resulting from the proposed $1,517,000,000 revenue requirement (exclusive of Miscellaneous Revenues) and with the then current market values for "Period A" under approved Rider PPO, customer classes and groups comprising well over 90% of its non-residential customers would have positive CTCs, meaning that any proposed increases in delivery services collections from such classes and groups will *in toto* be offset by reductions in their CTCs, i.e., the increase will be paid for by reducing ComEd's stranded cost recovery. Moreover, market prices have fallen since the market values were set in the current Period A under Rider PPO. ComEd presented evidence that current forward market prices yield similar if not even more favorable results in terms of positive CTCs, including a positive CTC for the largest residential customer class.

In Phase II, ComEd presented an updated customer billing impact analysis of its rate design based upon its revised proposed revenue requirement, using unratcheted demands. This analysis, which is attached to the Phase II testimony of Paul Crumrine as ComEd Exhibit 113.2, updates the customer billing impact analysis originally presented in Attachment G to the direct panel testimony submitted by Lawrence S. Alongi and Sharon M. Kelly in Phase I of this proceeding (ComEd Exhibit 13.0 CR), and uses the same methodology. Specifically, this updated analysis shows sample calculations of the Customer Transition Charges ("CTCs") for the CTC Customer Classes defined in ComEd's Rate CTC – Customer Transition Charge, assuming market value credits for electric energy and power that are equivalent to the currently effective Applicable Period A Load Weighted Average Market Values developed for each corresponding class in ComEd's Rider PPO – Purchase Power Option (Market Index). CTCs are shown for the current Applicable Period A that extends from June 2002 to May 2003. There are two columns of CTCs shown in bold type on page 1 of Exhibit 113.2 to reflect the increase in the mitigation factor effective January 1, 2003, as required by the Illinois Public Utilities Act.

ComEd also notes that, although significant distribution investments have been made and substantial expenses have been incurred to meet customer service needs, the majority of those expenditures will not be paid by customers for three principal reasons. First, bundled rates are frozen and will not increase during the mandatory transition period. Throughout this period, customers taking bundled service will benefit from the new and improved distribution facilities without any additional cost. Second, operating expenses incurred to maintain and improve reliability in 1998 and 1999 were incurred outside the test year and are not included in any adjustments. ComEd explains that because those expenses exceeded the amount included in existing rates, shareholders bore those expenses, and will never recover them. Third, ComEd notes that many customers taking delivery services also will avoid paying for new investments and additional test year and post-test year expenses because any growth in delivery charges will largely be offset by reductions in CTCs, resulting in no net increase in their bills. ComEd states that it assessed the impact of its proposals, and presented studies showing that well over 90% of its non-residential customers will be in classes and groups that have positive CTCs even under its proposal. For these classes and groups as a whole, the CTC fully offsets any change.

ComEd suggests that, from a policy perspective, in the long run, customers benefit from delivery services rates that are set correctly, to recover prudently incurred costs fully, without needless subsidies. So set, regulated rates can promote efficiency and reliability. It states that any suggestion that considering "customer impacts" means yielding to short-run desires to just "hold rates down" is misplaced and inconsistent with the balance of the Act and traditional and constitutional principles of ratemaking. The Company asserts that it is not sound policy, or in customers' interests, to establish below-cost delivery rates.

Finally, ComEd indicates that its distribution system is much stronger today than it was when the Commission last set ComEd's delivery services rates in Docket No. 99-0117. ComEd notes that distribution facilities have been added to handle load growth from existing and new customers, as well as to respond to geographic shifts in existing demand.

The above discussion highlights some of the issues raised by the parties involving the impact the proposed DST has on customers. Specific arguments and responses thereto can be found within the remainder of this Order.

2. Impact on Cost Based Rates

Several parties addressed the extent to which ComEd's proposed jurisdictional revenue requirement is cost based within the meaning of the Act. For example, GCI questions whether ComEd's expenditures on its distribution system were reasonable and prudent, as well as whether the resulting distribution facilities were used and useful. The ARES Coalition initially questioned whether all generation-related expenses had been properly excluded from ComEd's delivery services costs through the allocation, assignment and functionalization processes. However, ComEd suggest that that the initial concerns about impacts on customers, the concerns of the ARES Coalition about the impact on cost based rates will be resolved by approval of the proposed $1,517,000,000 revenue requirement (exclusive of Miscellaneous Revenues) supported by the Movants. The Movants agree with or do not oppose the conclusion that the rates approved by this order are consistent with the statutory directive that delivery services charges be cost based.

Other Parties' Positions

Further, GCI and, to some extent, in Phase I Staff contended that ComEd did not meet its burden of proof that its costs were prudent and that its distribution capital investments are used and useful. Specifically, Staff focused on the efforts ComEd made to address severe outages in downtown Chicago in the Summer of 1999, and the conclusion in its "Blueprint for Change" that significant improvements were required to its distribution system. They argue that if ComEd had maintained its distribution system in the past, the costs that were incurred following the 1999 outages would have been lower than they were. Therefore, they allege that certain expenses incurred in year 2000 to address distribution reliability must have resulted from past failures. They also contend that ComEd engaged in an extraordinary two-year recovery program beginning in 1999 and that the level of expenditures during the 2000 test year is not typical of the costs that ComEd will incur on an ongoing basis. In Phase II, Staff submitted testimony supporting some of the Liberty-proposed disallowances.

ComEd's Response

ComEd responds that it met its burden of proof and established that its rates are just and reasonable, include no imprudent expenditures, and are not higher as a result of "failures of the past." The Company asserts that, despite GCI's contention that some unnecessary costs must have been incurred, GCI was unable to identify even one instance of any enhanced, inflated or escalated costs for any plant, substation or other facility.

In the opinion of ComEd witness Helwig, the aggressive scheduling and focused efforts made by the Company following the distribution system failures in 1999 did not add unnecessary costs in the year 2000. Mr. Helwig explained that most of the additional work was accomplished with the same level of resources and without large cost increases because of major organizational and management process improvements, which resulted in significantly increased productivity. ComEd notes that the selection of a 2000 test year automatically excludes from the revenue requirement all of the expenses incurred in 1999 when the analysis of the distribution system was underway and when emergency restoration of power efforts was taking place. ComEd also notes that these 1999 events are the principal basis for the inference that unnecessary costs "must have" been incurred, and argues that the cost-based rates proposed in this case are unaffected by the level of 1999 operating expenses. ComEd also argues that one aspect of the 1999 investigation that spilled into 2000 was addressed when ComEd voluntarily excluded from 2000 test year expenses the costs of the Vantage and Liberty reports, as discussed in Section II.D.3.d.ii, below. ComEd also insists that it normalized tree management and variable storm restoration costs, thereby eliminating any basis for contending that these components of the revenue requirement contain unnecessary costs.

ComEd also asserts that the impact on cost-based rates from expenditures on its distribution system cannot be considered in a vacuum. It posits that the Company's testimony offered in this matter demonstrates that the delivery services revenue requirement initially proposed by ComEd and the resulting delivery services rates were reasonable in comparison to the rates charged for delivery services in other open access jurisdictions. The Company points to a review of the delivery services revenue requirements per kilowatt-hour of other restructured peer-group utilities around the nation to demonstrate how reasonable ComEd's proposed delivery services charges were:

Delivery Services Provider	Avg. Delivery Rev. Req. (¢/kWh)
NSTAR (composite)	3.54
SDG&E	3.17
PSE&G	2.90
PG&E	2.70
PECO	2.52
Southern Cal. Edison	2.46
AmerenCIPS (proposed)	2.06
ComEd (proposed)	2.05
Detroit Edison	1.90
FirstEnergy (CEI)	1.70
ComEd (current)	1.50
Reliant	1.27

Moreover, ComEd states the above calculation of its unit revenue requirement was high, because it does not reflect the more than $104 million reduction in the requested revenue requirement it had already agreed to in its initial brief. ComEd notes that with this reduction, its proposed unit revenue requirement drops to about 1.93 ¢/kWh. The Company maintains that the rates it initially proposed would result in a revenue requirement per kilowatt-hour that is significantly below the rates in effect in many other service territories, and that few comparable utilities' rates are lower.

ComEd also states that the conclusion from this analysis is further supported by the Phase II testimony of Paul Crumrine. (ComEd Exhibit 113.0). Mr. Crumrine presented an analysis of the unit distribution costs of ComEd and a number of comparable utilities and showed the results in Exhibits 113.3 through 113.8 to his testimony. The analysis of *pro forma* revenue requirements derived from publicly available data, primarily Federal Energy Regulatory Commission ("FERC") filings, demonstrates that ComEd's Phase II direct testimony revised proposed revenue requirement (which is in excess of the proposed $1,517,000,000 revenue requirement (exclusive of Miscellaneous Revenues) and resulting rates are consistent with, and often lower than, those of such other comparable utilities. The Company posits that the analysis also shows that ComEd's test-year expenditures are consistent with the level of expenditures that would be expected of a reliable electric utility of ComEd's size and type. It shows that ComEd's unit revenue requirement both as proposed in direct testimony in Phase II of this proceeding (labeled "ComEd Revised") and as derived using the common *pro forma* methodology from ComEd's year 2000 FERC Form 1 data (labeled "ComEd *Pro forma*"), is significantly below the average with respect to MVA of distribution substations, and below the average for three other unitizing factors (retail kilowatt-hours delivered, number of distribution substations, and annual system peak load). For another factor (number of customers), the ComEd *pro forma* lies slightly above, while the actual proposed revenue requirement is below the average. ComEd's data are above the average for only one such factor (distribution total line miles), and not significantly. Overall, ComEd observes that it compares very favorably with its peers. Additionally, ComEd also points to the Phase II reply testimony of Mr. Crumrine (ComEd Ex. 121.0) on certain of the foregoing topics.

Given that ComEd and the Movants support or do not oppose the proposed $1,517,000,000 (exclusive of Miscellaneous Revenues), the Company submits that the above comparisons provide even more compelling evidence that the delivery service rates established by this order are fair, just, and reasonable.

Commission Analysis and Conclusions

The Customer Choice Act is clear as to whether charges for delivery services must be cost-based:

> Charges for delivery services shall be cost based, and shall allow the electric utility to recover the costs of providing delivery services through its charges to delivery services customers that use the facilities and services associated with such costs. (220 ILCS 5/16-108)

The Commission concludes that the rates that ComEd sets "shall" be cost-based. While the Commission finds that rates must be cost based, it recognizes that determining that rates are cost based is not the only determination the Commission must make. The Commission must also determine the costs in question relate to delivery service and specifically relate to the services and facilities used to provide ComEd customers with delivery service. The Commission further concludes it must determine that the rates in question are just and reasonable under Sections 9-201(c) and 16-108(d) of the Act and that in making such a determination it must decide whether or not the costs in question were prudently and reasonably incurred.

As discussed in more detail in the following sections of this Order, the Commission concludes that the delivery services rates proposed by the Movants and supported by the evidence in the record satisfy all of these requirements.

3. Impact on the Development of an Effectively Competitive and Efficient Electricity Market

As with some of the other "impact" issues discussed in the testimony and briefs, some parties initially questioned whether ComEd's proposed delivery services rates would have an adverse impact on the development of an effectively competitive and efficient electricity market in Illinois.

ComEd, however, notes that when the evidence in the record is evaluated, it is clear that its proposals will promote efficiency and support the reliable delivery system required for competition. In this regard, the Company submits that no entity has done more to foster the development of a competitive and efficient market in Illinois than ComEd. ComEd maintains that its efforts have included promoting the development of new merchant generation, designing and implementing effective and efficient business processes, spearheading Power Purchase Option ("PPO") pricing that correctly reflects the market value of freed up power and energy, proposing Rider ISS pricing that will eliminate inappropriate "gaming" of the supply market using supply deliberately procured through Rider ISS, and establishing pro-competitive terms and conditions for Retail Energy Imbalance Service, including provisions specially designed to make retail open access work for customers with highly unpredictable and variable loads. ComEd also maintains that it has offered transmission cost collection mechanisms designed to reduce RESs' credit costs, as well as wholesale power services (*e.g.*, FRP Service) to provide others access to energy on terms that they desired.

ComEd contends that its past efforts to promote competition in its service territory have been extremely successful. It notes that since August 16, 1999, when it accepted its first Direct Access Service Request ("DASR"), the number of customers exercising choice has grown considerably and the number of certified suppliers has increased as well. The Company points to Chairman Mathias' Fall 2000 Report concerning implementation of the Electric Service Customer Choice And Rate Relief Law of 1997. ComEd notes that the Chairman's Report indicated that, as of July 31, 2000, 42% of the load of its customers who were then eligible to switch from bundled services had done so. As of December 31, 2000, over 9,500 non-residential customers, representing approximately 27% of its retail kilowatt-hour sales for the twelve months prior to the introduction of retail competition, had chosen to take delivery services. In addition, ComEd notes the total number of customers who, during this process, have elected delivery services continues to increase and, at the time this case was filed, included more than 12,250 customers, representing approximately 5,000 MW of load.

ComEd also contends that it has the most competitive and least concentrated service territory in Illinois. ComEd reminds us that the Commission's April, 2001, assessment of competition in the Illinois electric industry applauded ComEd's efforts, noting that customer switching rates in ComEd's service territory "continue to be high" and are "impressive." ComEd also notes that the report observed that "nearly 62% of eligible usage had switched from bundled to delivery services." The Company argues that its proposals in this proceeding build on these past successes and pave the way for continued development of the competitive market, making all retail customers eligible for delivery services.

Commission Analysis and Conclusions

We acknowledge that, in addition to other policy considerations, an effectively competitive and efficient electricity market for residential and non-residential delivery services is an integral policy consideration. As indicated above, the ARES Coalition initially raised questions about the competitive impact of ComEd's proposals. However, the Movants (including the ARES Coalition) have advised the Commission that they support or do not oppose the conclusion that the delivery services tariffs based on the proposed $1,517,000,000 revenue requirement (exclusive of Miscellaneous Revenues) described in the Procedural History section of this Order and the other provisions of the order proposed by the Movants address the concerns initially raised by the ARES Coalition. Based on the evidence in the record and the terms of the proposals advocated by the Movants, the Commission concludes that ComEd's delivery services rates as approved in this Order will promote efficient competition and will not have an adverse effect on the development of a competitive market.

4. Impact on Future Rate Cases

As indicated here, some initial concerns were raised about the impact on future rate cases of the decision in this proceeding. The Commission finds that the revenue requirement approved in this proceeding is based on the substantial evidence in this record and will not have an adverse impact on future rate cases.

5. Impact on Capital Markets

ComEd asserts that the risks facing the electric utility industry in Illinois have changed due to the reduction in regulation from the restructuring of electricity. The Company acknowledges that, following restructuring, the risks of owning and operating generation have been removed, but claims that restructuring creates risks from price arbitrage and classic externalities and will increase the impact of demand fluctuations on the variability of ComEd's cash flow. ComEd witness, Dr. Peltzman testified that the risks from increased price volatility that ComEd will bear in the future will be priced into ComEd's equity today. Further, ComEd witness, Dr. Culp testified that as provider of last resort, the Company's investors will require compensation for bearing additional risks in excess of that estimated via pure systematic risk-based cost of capital methods.

Staff disagrees with the Company's assessment of the impact of the restructuring. It asserts the restructuring of the industry has eliminated the risks associated with owning and operating generation that was previously borne by integrated electric utilities. As evidence of the decrease in risk caused by restructuring, Staff cites Standard & Poor's ("S&P"), October 2000, wherein ComEd's corporate credit rating was raised from BBB+ to A- and its business position rating was raised from 7 to

4. Staff asserts the ratings assigned by S&P reflect ComEd's solid financial measures and above average business profile which is supported by its low-risk electric transmission and distribution assets.

GCI also disagrees with the Company's assessment of the impact of restructuring. Notwithstanding the agreement of the parties on the final rate of return recommended to the Commission, the record in this proceeding must support the Commission's determination. 220 ILCS 5/10-103 (requiring any and every decision of the Commission to be based exclusively on the record for decision in the case). Accordingly, GCI maintains that it is necessary to refute ComEd's allegations about its alleged "POLR" vulnerability, if only because this issue might arise at a later date in another case. GCI asserts that the Commission should reject the claims about the Company's alleged "POLR" risks. GCI maintains that these risks deserve no weight in the Commission's assessment of ComEd's operating circumstances – now or in any subsequent proceeding.

A more detailed examination of the issues relating to cost of capital, including capital structure, cost of debt, cost of preferred stock, cost of common equity, and overall rate of return, is discussed in Section II E., herein below.

6. Impact on Distribution Adequacy and Reliability

ComEd notes that it has made the necessary capital investments to add capacity to meet load growth and to improve reliability. It points out that the record evidence supports the additions to Distribution Plant and the costs associated thereto as prudent and necessary. Further, ComEd stresses that no party (including the Liberty Consulting Group in its audit discussed below) contended that ComEd should not have made the additions to Distribution Plant. ComEd asserts that it has included only those costs necessary for a reliable system in this case.

Commission Analysis and Conclusions

The above discussion reflects that the parties did examine the impact of the Company's delivery services tariffs (both residential and non-residential) on distribution adequacy and reliability. The Commission believes that a reliable distribution system is important to the operation of a competitive marketplace in Illinois and that the delivery services rates approved in this order will enable ComEd to continue to provide the type of reliable service that customers expect.

7. Additional Policy Concerns

Prudence and the Liberty Audit

The ARES Coalition initially submitted testimony that raised questions about the prudence of costs incurred by ComEd. That testimony and the arguments based on it have now been withdrawn.

As indicated elsewhere in this Order, ComEd responded that it more than amply proved the prudence, justness, and reasonableness of the costs of providing delivery services that it is seeking to recover. ComEd also takes the position that it refuted the contention that it did not support its costs in discovery or was not forthcoming on the subject of whether its revenue requirement included incremental costs due to past imprudence. The Company notes that it responded to thousands of questions posed through data requests and produced voluminous information and documents. For example, ComEd produced over 30,000 pages of documents regarding the distribution capital projects it constructed from 1998 to 2001. ComEd asserts that it demonstrated that its revised revenue requirement did not include any incremental costs incurred due to imprudence. ComEd pointed out, among other things, that its 1998 and 1999 operating expenses never were included in the revenue requirement to begin with.

In accordance with the Commission's order in Docket 01-0664, an audit was conducted by the Liberty Consulting Group. The audit was completed and a final report was issued on October 10, 2002. In accordance with the scheduling orders entered in this proceeding, testimony was filed in response to the Liberty audit report on February 3, 2003. As discussed herein, the responsive testimony supports a finding that all recommendations contained in the Liberty audit report that are inconsistent with the terms of this order should be rejected. The Commission has therefore found and concluded based on the record that the audit recommendations that are inconsistent with this order are rejected as unsupported and unwarranted by the facts.

As explained in subsequent sections of this Order, based on the evidence in the record and the terms of the proposals advocated by the Movants, the Commission concludes that ComEd has demonstrated that the costs included in the delivery services rates as approved in this Order are reasonable and prudent.

II. Revenue Requirement Issues

A. Calculation of Revenue Requirement

The first task in establishing delivery services rates is to determine the costs of providing delivery services, as distinguished from generation or production costs. The resulting delivery services costs must then be allocated between FERC-jurisdictional transmission costs and Commission-jurisdictional distribution and customer costs.

ComEd initially proposed a jurisdictional revenue requirement of $1,786,970,000 (exclusive of Miscellaneous Revenues). Throughout the course of this proceeding, ComEd has agreed to certain adjustments of this proposed revenue requirement that were proposed by various parties and ComEd itself has proposed further downward adjustments. As discussed below, ComEd now supports the 8.99% weighted average cost of capital ("WACC") proposed by Staff. ComEd also made and agreed to various downward adjustments to its proposed jurisdictional net rate base and jurisdictional operating expenses in its rebuttal and surrebuttal testimony. These agreements reduced ComEd's proposed jurisdictional revenue requirement at the time ComEd's initial brief was filed by $104,265,000 to $1,682,705,000.

ComEd submitted extensive and detailed evidence in support of its initial and its revised proposed jurisdictional revenue requirements, responded to thousands of questions posed in data requests on the components of the revenue requirement, and produced and made available tens of thousands of documents pursuant to such requests. For example, Dr. James Williams and Messrs. David DeCampli and Philip Voltz, all Exelon or ComEd executives with relevant responsibilities, each offered extensive and detailed testimony regarding the prudence and justness and reasonableness of ComEd's jurisdictional rate base and operating expenses, including detailed evidence regarding the five largest distribution capital projects from 1998 to 2000 and a review and analysis of ComEd's distribution plant and operating expenses its processes for determining and controlling such investments and expenses. ComEd contends that its evidence amply met the quantum of proof in terms of breadth and detail that has been submitted in prior ComEd rate cases for the components of the revenue requirement.

ComEd argues that its initial proposed jurisdictional revenue requirement was appropriate, just, and reasonable for a provider of reliable and safe delivery services. In addition to the evidence offered with respect to ComEd's own costs, ComEd contends that this conclusion was confirmed by the testimony of Arlene Juracek, P.E., that ComEd's initial proposed jurisdictional revenue requirement resulted in a per kilowatt-hour revenue requirement that is in the lower half of peer restructured electric utilities. In addition, ComEd notes, it has over the course of this proceeding subsequently reduced its initial proposed jurisdictional revenue requirement by an aggregate over $104 million. ComEd points to the Phase II testimony of Paul Crumrine for further support for the conclusion expressed in the testimony of Arlene Juracek.

In addition, ComEd avers that the reasonableness of ComEd's proposed revenue requirement is further confirmed by the Phase II direct testimony of Jerome Hill. Mr. Hill prepared a jurisdictional delivery services revenue requirement for ComEd for the year 2001 using the independently audited financial statements and FERC Form 1 data for ComEd as an energy delivery company. As explained by Mr. Hill, the primary purposes of this analysis were to act as a holistic check on the overall results derived and recommended by Liberty based on its many assertions about atypical cost levels in the 2000 test year (discussed below) and on the results of the Staff's "across the board" modified general labor allocator in relation to General Plant, Intangible Plant, and A&G expenses. The results of the analysis shows ComEd's 2001 jurisdictional revenue requirement to be $1,769,457,000 (exclusive of Miscellaneous Revenues) or nearly identical to the Company's revenue requirement initially filed in this case of $1,786,970,000 (exclusive of Miscellaneous Revenues) based on an adjusted 2000 test year.

GCI, on the other hand, proposed a revenue requirement of $1,361,187,000 in its Phase I testimony (GC Schedule 5.1 Revised), and $1,420,376,000 in the Phase II testimony of Mr. Effron (each exclusive of Miscellaneous Revenues). With respect to the Company's proposed revenue requirement, GCI in its Phase I testimony urged the Commission to consider said proposal together with the failures of the Company's system in 1999. As a result of the outages in 1999, the Company compiled an "Investigation Report" which contained a "A Blueprint for Change." See (Investigation Report by Commonwealth Edison to the Illinois Commerce Commission, Illinois Public Officials, and the Customers of Commonwealth Edison, September 15, 1999). The Investigation Report found "serious issues" in the transmission and distribution system, especially in the areas of system maintenance, planning and design." Specifically the report found that the management of the Company's distribution business required "truly radical change." Further, the report states that "ComEd needs a performance revolution in its transmission and distribution system." To rectify inspection and maintenance problems, a two-year recovery program included "a 24 hour/7 days a week campaign to repair, replace or upgrade major equipment such as transmission lines, substation, feeder cables and other components." "A Blueprint for Change", at A2. GCI's point was that the spending necessary to implement the two-year recovery program had resulted in additional costs which must have been included within the Company's proposed revenue requirement. GCI claimed the public statements of the Company wherein it pledged the costs to remediate reliability problems would be at no cost to ratepayers did not square with the Company's request for an "almost 50%" increase in delivery services revenue requirement. These issues are addressed in more detail in connection with the discussion of the Liberty audit.

In its Phase I evidentiary submissions and briefs, ComEd responded to the various challenges to its revised proposed jurisdictional revenue requirement. ComEd contended that any further downward adjustments to its revised proposed jurisdictional revenue requirement are not warranted. ComEd contended that no intervenor had identified a single distribution capital project that ComEd would not have performed but for alleged past imprudence nor a single such project that had a total cost that was not prudent and just and reasonable, apart from Staff witness Larson's contending that ComEd had paid a "premium" on a single transformer and "premiums" in the form of time-related incentives for certain work on the Chicago "six pack". ComEd contended that GCI's reference to a supposed "almost 50%" rate increase plainly was false. ComEd's much lower revised proposed jurisdictional revenue requirement in its Initial Brief, which did not reflect the further downward adjustments later accepted in ComEd's Brief on Exceptions, provided for an approximately 38.9% nominal increase, and a significantly smaller real increase given inflation, growth in load and billing determinants, and other contributing factors such as refunctionalization and certain accounting changes, even before CTC offsets. (Reply Brief of ComEd, pp. 10-12). ComEd and other parties further addressed these issues and the reasonableness of its revenue requirement in its Phase II testimony.

The Movants now support or do not oppose the entry of this order approving delivery service tariffs for residential and non-residential customers based on a proposed $1,517,000,000 jurisdictional delivery services revenue requirement (exclusive of Miscellaneous Revenues).

The Commission notes that, although the ARES Coalition initially proposed a different revenue requirement, the Coalition's testimony and arguments in support of that lower revenue requirement have now been withdrawn.

Commission Analysis and Conclusion

Based upon the evidence of record and for the reasons described throughout this Order, the Commission concludes that the following jurisdictional revenue requirement is appropriate just and reasonable and is, therefore, approved. For purposes of this Order the Commission finds that an appropriate revenue requirement is $1,507,636,000 (exclusive of Other Revenues) to be effective beginning with the June 2003 monthly billing period is supported by the evidence in the record, is cost based and includes only the prudent and reasonable costs of providing delivery services.

B. Selection of Test Year

ComEd's Position

ComEd determined its proposed jurisdictional revenue requirement using a 2000 test year, with certain adjustments -- including downward adjustments it proposed in its direct case. The Company argues that its selection of 2000 as the test year was appropriate for several reasons.

First, ComEd explains that it operates on a calendar year basis for various financial purposes, and that the calendar year 2000 was the most recent year for which it had complete financial results, thereby making the year 2000 the most appropriate for test year purposes.

Second, ComEd explains that it is required each year to prepare and file with FERC a "FERC Form No. 1: Annual Report of Major Electric Utilities, Licensees and Others", commonly referred to as a "FERC Form 1." This Form uses the FERC Uniform System of Accounts, which has been adopted by the Commission with limited modifications, and is the starting point in many respects, for the financial aspects of ratemaking. ComEd contends that its most recent FERC Form 1 is for the year 2000, which provides added support for selecting the year 2000 as an appropriate test year.

Finally, ComEd explains that the year 2000 is the only full calendar year throughout which it had customers eligible for open access, and during which it experienced a full year of open access implementation costs. The Company thus contends that 2000 was both the most accurate, and only practical, historical test year.

Staff's Position

Staff asserted that the Commission should not set rates based on a 2000 test year "with finality" until an investigation and audit, initially sought by the City, the AG, CCSAO and CUB in Docket 01-0664 could be completed. Staff argued that an investigation by an "independent expert" in connection with Docket 01-0664 was necessary before the Commission could be assured that rates set based on a 2000 test year are "just and reasonable" and otherwise in compliance with the Act. Staff did not propose any other test year.

GCI's Position

GCI does not object to the use of a 2000 test year, although it proposed or supported various downward adjustments to ComEd's proposed revenue requirement.

The ARES Position

While the ARES Coalition acknowledged that the Company is free to select a historical test year, it initially raised concerns about the year 2000 actually selected by ComEd. All testimony and arguments raising concerns inconsistent with this order regarding the selection of a 2000 test year have now been withdrawn by the ARES Coalition.

BOMA's Position

BOMA initially argued that the appropriateness of the 2000 test year should be resolved only after the completion of the audit sought in Docket 01-0664. The audit has now been completed, and BOMA has withdrawn any testimony or arguments inconsistent with the use of a 2000 test year as approved in this order.

ComEd's Response

ComEd contends that the 2000 test year, with appropriate adjustments, is the only appropriate test year, and that prior years are not representative of, and do not fairly reflect, the costs of providing delivery services. ComEd also contends that no party presented evidence disputing the reasons supporting ComEd's selection of 2000 as the test year, and that no party proposes any other test year.

ComEd, therefore, contends that the evidence in the record permits only the conclusion that 2000 is the most, and only, appropriate test year, and that nothing in the record permits any other conclusion. ComEd adds that its 2001 revenue requirement analysis in Phase II confirms the appropriateness of the 2000 test year.

Commission Analysis and Conclusion

The Commission agrees that 2000, with appropriate adjustments, is an appropriate test year. Significantly, the Movants also now agree or do not oppose the conclusion that the use of a 2000 test year is appropriate.

Use of a 2000 test year is appropriate for many reasons. The Company operates on a calendar basis. As of Phase I, 2000 was the most recent year for which it has full financial results, and for which it has a filed FERC Form 1. Further, 2000 was the only complete year of open access.

The initial objections to establishing delivery services rates "with finality" based on a 2000 test year prior to completion of the audit ordered by the Commission in Docket 00-0664 are now moot. The audit was conducted and a final report was issued on October 10, 2002. Testimony submitted in response to the audit report on February 3, 2003 supports the Commission's findings and conclusions, described in more detail in other sections of this Order, that all recommendations in the audit report that are inconsistent with the terms of this order should be rejected.

C. Rate Base

ComEd initially proposed a Commission-jurisdictional delivery services net rate base for the 2000 test year of $4,083,927,000, after adjustments. Given the downward adjustments in ComEd's rate base proposed by GCI that ComEd agreed to in its rebuttal testimony, and the further downward adjustment that ComEd voluntarily made to its rate base in its surrebuttal testimony, its revised proposed jurisdictional net rate base at the time ComEd's initial brief was filed, prior to the completion of the Liberty audit, was $4,018,471,000. Citing to a variety of factors, including the Liberty audit recommendation that certain incentive compensation should be capitalized and that a change in depreciation methodology is appropriate as discussed further below, together with other findings in this order with respect to the proposed labor allocator the Company and states that its jurisdictional net rate base is a $3,616,659,000. Movants support or do not oppose approval of this rate base and submit that the evidence in the record warrants the Commission's approval.

1. Functionalization of Distribution Plant

ComEd states that it performed an analysis of costs associated with the provision of delivery services and correctly identified the portion of its distribution plant that is used to serve retail customers. ComEd indicates that this involved, among other things, correctly identifying plant appropriately refunctionalized to the distribution function under the FERC "seven factor" test. ComEd also indicates that this analysis involved correctly excluding distribution plant used to serve wholesale municipal customers.

No party to this proceeding contests ComEd's functionalization of distribution plant or has identified any error in the functionalization. The Commission accepts ComEd's functionalization analysis.

2. General and Intangible Plant – Direct Assignment and Allocation

ComEd's Position

ComEd notes that it submitted extensive evidence concerning its accounting for General and Intangible Plant costs. ComEd also notes that because of its restructuring into actual separate business units, the task of assigning General Plant costs in this case differs from that task in past cases. ComEd indicates that it and the other restructured entities have restructured balance sheets that have been subjected to interim audit procedures of the Company's independent auditors. ComEd also indicates that the movement of entities, departments, and personnel and the accounting implementing the restructuring actually began in August or September 2000. ComEd further indicates that it was split into: (1) ComEd, the "wires company"; (2) Exelon Generation Company LLC ("ExGen"), which owns what were the generation-related assets and liabilities of ComEd; and (3) Exelon Business Services Company ("Exelon BSC"), which provides shared services under the Public Utility Holding Company Act of 1935 and other regulatory rules, and which includes Exelon Corporate Center. In addition, ComEd states that its independent auditor, Pricewaterhouse Coopers ("PWC"), reviewed the balance sheets of those restructured business units as well as, in large part, the other resulting financial statements as part of its first quarter 2001 audit procedures and found no irregularity. ComEd also notes that all data supporting the split of all balance sheet items, which includes the General and Intangible Plant accounts, were available to the parties in this proceeding for several months.

ComEd notes that its witness, Jerome Hill, explained in his direct testimony: "These documents [the balance sheets] were the foundation to determine the General and Intangible Plant utilized to provide Illinois jurisdictional delivery services. Where necessary detail to directly assign General Plant items was not available, costs were allocated using an appropriate general allocation factor. Appendix A [to Mr. Hill's direct testimony] contains a more detailed discussion of how General Plant costs in each account were assigned or allocated." Hill Dir., ComEd Ex. 4.0 CR, p. 9. Appendix A, ComEd notes, contained eight detailed pages of information. Hill Dir. ComEd Ex. 4.0 CR, App. A. ComEd contends that (as Appendix A explained) because the balance sheets addressed all assets and liabilities of ComEd, including General and Intangible Plant items, the only direct assignment or allocation of these items that was necessary was in two areas: (1) the removal of the FERC-jurisdictional transmission component from the ComEd balance sheet and (2) assignment or allocation of the appropriate amount of General and Intangible Plant of Exelon BSC back to ComEd for ratemaking purposes. ComEd states that apart from those two limited areas, there is no need to assign or allocate directly those costs among the business functions. ComEd notes that Pam Strobel, its Chair, explained that as a result of ComEd's restructuring, "the costs assigned to ComEd are the costs *actually* incurred by ComEd" and that "any suggestion that the costs borne by ComEd are arbitrary or artificial is simply wrong." Strobel Reb., ComEd Ex. 18.0, p. 7 (emphasis added).

Staff's Position

Staff's argument in opposition to the Company's direct assignment proposal is extensive and multifaceted. First, Staff asserts, the evidence clearly supports the use of a labor allocator to functionalize General and Intangible Plant and Administrative and General (A&G) Accounts to distribution. Staff claims that a general labor allocator is more reasonable and more equitable than a direct assignment approach. Staff notes the Commission approved a labor allocator in ComEd's last delivery service proceeding (Docket 99-0117) and charges the Company offers no credible evidence in this proceeding to deviate from that approach.

Secondly, Staff maintains the specific allocator to use for these accounts is Staff's proposed labor allocator. Staff suggests its allocator appropriately takes into consideration the labor, not only for ComEd's existing production plants, but also for the fossil plants sold to Midwest Generation. The labor from the fossil plants should be included to properly account for their share of General and Intangible and A&G accounts.

With respect to Staff's first assertion, it claims the evidence supports the use of a labor allocator. Staff summarizes ComEd's proposal as a combination of detailed direct assignments with a variety of allocation factors. This approach is defended by ComEd on two levels. First, the greater detail associated with the Company proposal ensures more accurate results. Second, the Company's proposal is consistent with past practice.

Staff maintains that ComEd's proposed functionalization methodology is riddled with inconsistencies at many levels. The proposal is laden with internal inconsistencies. The proposal is inconsistent with the Company's proposed methodology in Docket 99-0117. Lastly, the Company's proposal clearly conflicts with the methodology approved by the Commission in Docket 99-0117.

Staff suggests that the methodology used by ComEd witness Hill in his direct testimony conflicts with the approach he presents in Rebuttal. For example, Staff notes, Hill contends in direct that transportation assets were functionalized to distribution based on a study performed in 1999 using 1997 data (Tr. 3215). Staff cites to several other alleged inconsistencies in its initial brief. Ultimately Staff concludes the noted discrepancies undermine the Company's proposed functionalization.

Next, Staff asserts ComEd's proposed functionalization also conflicts with its proposed approach in Docket No. 99-0117. According to ComEd witness. Hill, "ComEd has <u>not</u> changed from its prior method of functionalizing these costs" (ComEd Ex. 23.0, p. 7). However, Staff believes Hill's claim is undermined by a number of discrepancies between the two proposals. Staff points to the Intangible Plant Account 303 which was zero in Docket 99-0117 and now it is $166,000,000. When asked to explain the disparity, Staff asserts ComEd witnesses were unable to do so. Staff further inquired as asked how the Company (1) accounted for and (2) functionalized capitalized software in Docket 99-0117. Staff again asserts the Company was unable to answer the question. As such, Staff argues that the Company cannot claim its approach is consistent with its approach in Docket 99-0117.

Further, for General Plant accounts, Staff presented an analysis quantifying the inconsistencies between ComEd's approach in this case and Docket No. 99-0117. Staff compared ComEd's proposed allocations of General Plant and A&G accounts to distribution between this case and Docket 99-0117 and found significant variations between the two. For General Plant, ComEd's proposed allocation of Account 389, Land and Land Rights declined by 37% from $11,255,971 in Docket 99-0117 to $7,097,472 in the current proceeding while the proposed allocation of Account 391, Office Furniture and Equipment, increased by 72% from $60,821,929 in Docket 99-0117 to $104,962,371 in the current case. The proposed allocation for Account 396, Power Operated Equipment, fell 52% from $4,629,732 to $2,230,719 while the allocation of Account 398, Miscellaneous Equipment, has increased by 304% from $349,968 to $1,414,665 from Docket 99-0117 to this proceeding. These fluctuations, Staff asserts, indicate that the Company's direct assignment method of functionalization in this docket is as unreliable as the Company's direct assignment method of functionalization proposed and rejected in Docket 99-0117.

Next Staff contends, ComEd's proposed functionalization conflicts with Commission precedent. In Docket 99-0117, Staff states the Commission expressly rejected ComEd's proposal to functionalize on the basis of detailed direct assignments in favor of a general labor allocator. Staff maintains the Commission drew a parallel conclusion for A&G accounts. Staff asserts the Commission objected, not just to ComEd's specific proposal in Docket 99-0117, but to the general concept of functionalizing these accounts on the basis of direct assignments

Further, Staff contends that the Company failed to justify why the Commission should depart from its decision in Docket 99-0117. Staff notes that the Company relied upon its witness Hill who claimed that changes in the Company's business structure undermine the relevance of the Commission's Order in Docket 99-0117 relative to this proceeding. ComEd contends that during the test year it began to replace the its vertically integrated structure with a structure divided into generation, transmission and distribution components. Accordingly the Company claims, this realignment makes the functionalization process more conducive to direct assignment then general allocation.

Staff views the Company's argument as unpersuasive. First whether to reorganize or not was the Company's decision and it should have no bearing on whether to abandon the Commission's decision on this matter. Secondly, the restructuring argument does not address the general concern by the Commission about the use of direct assignments for these accounts.

Furthermore, Staff charges, the Company uses reorganization as a tool to shift costs from generation to distribution and thereby penalizes delivery services ratepayers in the process. Staff asserts the Company did not even begin to restructure until January 2001, after the test year ended. It is Staff's position that the Company retained its vertical structure throughout the test year, which makes Mr. Hill's proposed assignment of test year assets to restructured legal business entities clearly inappropriate.

In the event ComEd's methodology is employed, Staff is concerned a double standard would be produced. Staff contends, that in contrast to ComEd's proposal, other Illinois utilities such as AmerenUE and AmerenCIPS have adhered to the Commission-approved labor allocator for functionalizing General and Intangible Plant in this round of delivery services cases. If the Commission accepted ComEd's proposal in this case, Staff claims it would be applying a double standard in favor of those utilities that disregard Commission opinions over utilities that adhere to those opinions.

With respect to Staff's second assertion, Staff maintains the specific allocator to use for these accounts is Staff's proposed labor allocator. Staff suggests its allocator appropriately takes into consideration the labor, not only for ComEd's existing production plants, but also for the fossil plants sold to Midwest Generation. Staff maintains labor from the fossil plants should be included to properly account for their share of General and Intangible and A&G accounts.

Staff has proposed an adjustment in this proceeding based upon applying the labor allocator adopted by the Commission in Docket 99-0117 to the functionalization of General and Intangible Plant in this proceeding. Staff is joined by IIEC and the City in proposing adjustments to the functionalization of General and Intangible Plant and A&G expenses based on the Commission-approved labor allocator. Staff however suggests IIEC and City's proposed adjustments fall short. IIEC's adjustment covers General Plant and A&G accounts but does not include Intangible Plant. Furthermore, the adjustments by both IIEC and the City do not take into consideration the fossil plants sold by ComEd prior to the test year.

Staff maintains Intangible Plant should be included in the adjustment to make ComEd's allocation methodology consistent with Commission decisions in other proceedings on this issue. The increase of the Intangible Plant balance to $179,899,429 in the test year from $80,375 in Docket 99-0117 makes this a relevant issue for the current proceeding. In the initial delivery services dockets for other utilities Staff claims the Commission approved a labor allocator for Intangible Plant as well. Further in Ameren's current delivery service case (Docket 00-0802) a proposed labor allocator for Intangible Plant was applied. Applying the labor allocator to Intangible Plant in this case would align ComEd with these decisions.

Staff asserts the record demonstrates that the labor allocator for this case should include the labor associated with the fossil plants that ComEd divested before the test year. The reason, Staff believes, stems from the Commission Order in Docket 99-0117 which adopted a labor allocator that included labor from ComEd's fossil plants. When ComEd sold those plants to Mission Energy in November 1999, Staff claims the Company failed to adjust downwards the General and Intangible Plant accounts associated with these plants based on the Commission-approved methodology. Staff charges this has increased the allocation of General and Intangible Plant to the remaining regulated company and laid the groundwork for higher delivery services rates.

The specific adjustment proposed by Staff reallocates General and Intangible Plant as well as A&G accounts based on a labor allocator that includes labor from the divested fossil plants. This produces adjustments of: $(405,160,914) in Gross Plant; $1,035,274 in Depreciation Reserve; $555,976 in ADIT and Other Rate Base Items; and $(60,002,014) in expenses. The proposed adjustment reflects the difference in the revenue requirement that results from using a labor allocator to functionalize General and Intangible Plant and A&G expenses in the Company's cost of service study.

The starting point for Staff's proposed labor allocator is the labor allocator contained in the Company's cost of service study. Staff revised the allocator by substituting the production labor amount from the Company's 1999 FERC Form 1 (p. 354, line 18) for the production labor amount in the Company's cost of service study. This increases the production component of the allocator from $448,246,408 to $538,203,725 and decreases the distribution share of labor from 36.94% to 33.06%. Staff's reason for using the 1999 figure was because it represents the most recent year that ComEd included labor costs from the fossil plants. Staff asserts this is the most reasonable figure to use to reflect the role of the fossil plants in the labor allocator. The transmission and distribution components of the Company's allocator were not revised in order to remain as consistent as possible with the other components of the Company's test year labor costs. Staff proposes a downward adjustment to rate base of $405,160,914 (before offsets).

GCI's Position

GCI notes that the Commission has previously rejected the Company's proposal to directly assign general plant costs. Docket 99-0117. Further, GCI quotes:

> … The very nature of these costs suggest that they are not amenable to direct assignment. In previous cases, Edison used a labor allocator to assign these costs. Edison has not made a convincing argument for deviating from this past practice.
>
> *Id.* at 11.

GCI also argues that the Commission should reject ComEd's functionalization of its General and Intangible Plant costs because (1) the Commission rejected ComEd's functionalization of General Plant and A&G in favor of a general labor allocator in

Docket 99-0117 and (2) the Company failed to present evidence that would warrant the Commission deviate from its prior conclusion. Though the Company sponsored testimony in support of direct assignment approach, it failed to provide specific examples of expenses that were not amenable to direct assignment in Docket 99-0117 that are now amenable to direct assignment as a result of the Company's re-alignment from a vertically integrated company. Consequently, GCI proposes a downward adjustment to rate base of $420,857,000 (before offsets).

IIEC's Position

IIEC argues that ComEd improperly functionalized General Plant and A&G expense. It asserts the Company's methodology under-allocates expenses to the competitive generation function and over-allocates expenses to the regulated distribution function. In opposition to ComEd's methodology, IIEC argument is four-fold: (1) The subject cost and expenses do not lend themselves to direct assignment; (2) ComEd's method for allocating these costs and expenses was rejected in the 1999 DST case; (3) ComEd's method for allocating these costs and expenses differs from methods used for prior bundled rate cases; and (4) ComEd's method for allocating these costs and expenses is inconsistent with the manner in which the FERC sets transmission rates.

In addition to its above position, IIEC maintains the Company has failed to show why the Commission should depart from its previous decision to use a general labor allocator. Particularly, IIEC cites several reasons why the re-structuring of the Company is not controlling. First, the Company failed to reflect the transfer or divestiture of its nuclear generation. Second, the issue IIEC asserts is not whether the Company was restructured but rather whether or not General and Intangible expenses and A&G accounts previously allocated to the generation function can now be reallocated to the transmission and distribution function. IIEC maintains the Company now seeks to allocate costs previously allocated to generation to other functions unrelated to generation. Third, the Company's restructuring argument also ignores the fact that ComEd's parent corporation, Exelon, will be a fully integrated electric energy company owning generation, transmission and distribution facilities and that it has developed an integrated corporate strategy on the basis of its ownership to those facilities. IIEC asserts that the officers and directors of ComEd and Exelon overlap in many instances. IIEC charges that ComEd (and Exelon) have an incentive to move costs away from the unregulated and competitive generation function to the regulated distribution function, because its generation function will be more competitive and assignment to the distribution function offers a better opportunity to recover those costs through ComEd's delivery service rates.

IIEC noted that Staff, GCI and the ARES Coalition had basically supported the use of a labor allocator for the functionalization and allocation of A&G and G&I.

The ARES Position

The ARES Coalition initially agreed with Staff's position on functionalization, but has now withdrawn its testimony to that effect

ComEd's Response

ComEd contends that it proved the accuracy of its General and Intangible Plant costs included in jurisdictional rate base. ComEd argues that in direct and surrebuttal, Company witness Hill went through each individual General and Intangible Plant account, showing ComEd had analyzed them correctly. ComEd also argues that no party identified even a single flaw in ComEd's analysis. ComEd also contends that Staff's claims of inconsistencies are incorrect, as shown in Mr. Hill's pre-filed testimony and again in Mr. Hill's redirect testimony, and reflect only misunderstanding on Staff's part. ComEd further contends that no party identified any General or Intangible Plant cost that ComEd directly assigned that is not amenable to direct assignment; the Intangible Plant costs, for example, consist of only five items, typically major software systems, supported by specific detailed evidence, and no party even attempted to discuss those items as such. As discussed above, given that the restructured balance sheets addressed all assets and liabilities, including General and Intangible Plant, direct assignment and allocation were necessary only in two limited areas. Where allocators were used, they were appropriate allocators based on cost causation. ComEd notes that Staff mentions executive compensation and costs of corporate offices, which are A&G expenses, not General and Intangible Plant costs, and which ComEd did not directly assign but rather allocated using a labor allocator as discussed in Section II.D.3.b of this Order.

ComEd also contends that Staff's assertion that the restructuring did not begin until 2001 simply is incorrect -- it began in Fall 2000, during the test year (as noted above). Staff's assertion that the restructuring penalizes delivery services customers is unsupported and circular -- Staff assumes without proof that Staff's allocator is correct and then assumes that if the restructured balance sheets do not match the results of the Staff's allocator then the balance sheets must be incorrect. ComEd also argues that Staff's position also is inconsistent with its position in Docket 00-0802, where Staff insisted on a *pro forma* adjustment to reflect the sale of generation after the test year, and the Commission approved that adjustment. Staff's position also is inconsistent with its argument in Docket 01-0530 that its proposed labor allocator should not be rejected based on its results compared with its results in a prior rate case. Also, Staff's witnesses testified in Docket 99-0117 that ComEd's functionalization of General and Intangible Plant was reasonable and should be adopted, and, in the instant Docket, Staff witness Bowers criticized allocation where direct assignment is feasible.

ComEd asserts that IIEC's position is inconsistent with its position in Docket 01-0432, where it opposes use of the labor allocator for functionalization in light of its results given IP's restructuring. Further, ComEd witness Alan Heintz, former Section

Chief of FERC's Division of Applications, refuted IIEC's claims that FERC decisions and prior ComEd bundled rate case decisions support use of a labor allocator here.

ComEd also notes that the record in this Docket is a new evidentiary record, vastly different from the record in Docket 99-0117, and that the decision in that Docket is not *res judicata*. ComEd now is a vastly different company than it was in that Docket. ComEd then was a vertically integrated electric utility. It owned numerous fossil generating plants and the nation's largest nuclear fleet. ComEd sold its fossil units before the 2000 test year, ComEd has been restructured beginning in Fall 2000, with restructured balance sheets reviewed by its independent auditor, and the facts differ substantially from those in Docket 99-0117. ComEd's restructuring profoundly affected its costs; for example, in 1999 when it was a vertically integrated utility its fossil production expenses were 21.3% of its O&M expenses, but in 2000 they were just 0.16% of those expenses. All data supporting the split balance sheets, including the General and Intangible Plant accounts, were available to the parties for several months. Further, the Commission did not use a labor allocator for Intangible Plant in Docket 99-0117. Moreover, ComEd notes, on rehearing in that docket and in Docket 99-0113 the Commission made clear that direct assignment is preferable because it is more accurate where it is feasible.

The Company that CBMS is, and has been since January 1, 1998, ComEd's general ledger. CBMS therefore has been reviewed three times by ComEd's independent auditors, not even counting interim audit procedures, the work papers of the independent auditor review were available to Staff during its field audit and Staff has raised no issue regarding the integrity of CBMS, and Staff was given a presentation on CBMS and had every opportunity to obtain data from CBMS. ComEd further contends that Staff's proposal to include the fossil units is arbitrary and only serves to inflate Staff's proposed adjustment; the Commission must base its decision exclusively on the record; and the evidentiary record permits only the adoption of ComEd's analysis.

In addition to all of this evidence, the Company asserts that the Phase II direct testimony of ComEd's Vice President, Finance, Kathryn Houtsma , provides significant new evidence supporting the conclusion that the use of Staff's general labor allocator produces unreasonable and inaccurate results. Ms. Houtsma explains that the Interim Order (inconsistently) disallowed over $400 million of ComEd's General Plant and Intangible Plant, and over $60 million of ComEd's A&G expenses, based on Staff's "across the board" modified general labor allocator, while simultaneously disallowing certain specific A&G expenses based on Staff's proposed direct assignments of those expenses. The Interim Order expressly provided, however, for further review of these issues in this Phase II of this Docket. Ms. Houtsma notes that ComEd's independently audited 2001 financial statements (including its balance sheets) and 2001 FERC Form 1, which were not available at the time when the record was closed in Phase I of this Docket, constitute important additional evidence that ComEd correctly accounted for its General Plant and Intangible Plant. Finally, Com Ed asserts this point is further supported in greater detail by Phase II direct testimony of Jerome P. Hill, its Director of Revenue Requirements (ComEd Exhibit 112.0).

Commission Analysis and Conclusion

In the Interim Order entered on April 1, 2002, the Commission approved the use of Staff's general labor allocator to allocate general and intangible plant. The Commission made clear that it was not finally resolving the issue and that the Interim Order's determination was without prejudice to further proceedings in this Docket.

The Commission has reviewed all of the evidence relating to allocation of General and Intangible Plant and concludes that, for purposes of this proceeding only, and without prejudging any issues that may arise in future cases concerning the allocation of general and intangible plant using other test years, the general labor allocator, proposed by Staff should be approved in this docket. The Commission approves the $405,160,914 (before offsets) downward adjustment to general and intangible plant proposed by Staff for the purpose of determining the 2000 test year revenue requirement in this proceeding.

3. Known & Measurable Changes to Test Year Plant Balances

ComEd's Position

ComEd proposed several adjustments to its distribution plant included in rate base. ComEd proposed three of these adjustments in its direct testimony. The net adjustments were (1) $96,501,000 in distribution plant that was in service and serving retail customers in 2000 but that was not recorded on ComEd's year 2000 FERC Form 1 in Accounts 360-373 and instead was formally recorded in those accounts in early 2001; (2) $33,042,000 in distribution plant that was placed in service and serving retail customers in the first quarter of 2001; and (3) $122,765,000 in distribution plant that was reasonably expected to be (and in fact ultimately was) placed in service and serving retail customers in the second quarter of 2001. ComEd also made a voluntary gross downward adjustment in its surrebuttal testimony of $1,014,000 that it is willing to make to its distribution plant in rate base based on how certain costs were booked in the second quarter of 2001.

Staff's Position

Staff proposes a downward adjustment of $11,038,000 for plant put into service in the second quarter of 2001 along with the associated adjustments for accumulated depreciation, accumulated deferred income taxes and depreciation expense, based on the theory that ComEd should only recover costs incurred or expended on the relevant projects through June 30, 2001, because costs presumably are not incurred or expended after the projects are placed in service.

The Company proposed that $126,592,000 would be spent on projects reasonably expected to be placed in-service in the second quarter of 2001 and included a related $3,224,000 of accumulated depreciation and $603,000 of deferred income taxes for a net addition to rate base of $122,765,000.

Staff had made a Data Request on the Company requesting a listing of amounts reflected in this category that have been actually placed in-service in the second quarter of 2001. The Company in its corrected response to the request stated that all projects were in service as of the end of the second quarter of 2001 and that $115,554,000 had been expended on those projects. Mr. Gorniak made his $11,038,000 adjustment to reflect the decrease in amount spent on these projects based upon the Company corrected response. Staff witness Gorniak made a related adjustment of $277,000 decreasing accumulated depreciation and a $52,000 adjustment decreasing accumulated deferred income taxes for a net reduction to plant and rate base of $10,709,000 million. The related depreciation expense adjustment was a reduction of $277,000.

ComEd Witness Voltz presented Surrebuttal Testimony indicating that despite the projects being put in service as of June 30, 2001, an additional $8,100,000 or a total of $123,680,000 has been spent on these projects in the third quarter of 2001. (ComEd 46.0, p. 2) Staff states that Voltz even speculated that project expenditures were to continue on some projects in the months to come that may make the original forecast of expenditures of $126,592,000 realistic.

Staff maintains that it is unreasonable to suddenly demand in Surrebuttal Testimony that alleged expenditures made in the 3rd quarter of 2001 be considered for rate base treatment without evidence such as invoices, work orders or even bookkeeping entries to indicate that the expenditures were even made. Staff objects to the additional costs because the testimony presented nothing other than a statement saying the money was "spent." Staff complains that the Company failed to state what these further additions were after the plant was in service, why they were necessary, nor provided any basis upon which Staff could determine if they were appropriate.

Similarly, Staff asserts, the Company failed to provide any associated changes to deferred taxes, accumulated depreciation, or depreciation expense that are in line with the claim of $123,680,000 of expenditures. Staff concludes that its adjustment allowing $115,554,000 for plant put into service in the 2nd quarter of 2001 along with the associated adjustments for accumulated depreciation, accumulated deferred income taxes and depreciation expense is reasonable and supported by the record.

Staff concurs with the Company's voluntary gross downward adjustment of $1,014,000 which relates to what the Company refers to as the Northwest Project. The reduction also results in a $14,000 reduction to accumulated depreciation and a $10,000 reduction of accumulated deferred income taxes.

GCI's Position

In its Phase I testimony, GCI recommends the same gross downward adjustment of $11,038,000 to reflect plant placed in service during the second quarter of 2001.

GCI also proposed a downward adjustment to accumulated reserve depreciation of $90,266,000 ($89,906,000 per their witness) based on attributing the entire increase in depreciation reserve for all distribution plant from December 30, 2001, to June 30, 2001, only to distribution plant additions. GCI witness Effron proposed that accumulated depreciation reserve be adjusted to reflect the post-test year additions to rate base. Mr. Effron explained that ComEd's proposal to adjust the accumulated depreciation reserve by one year's worth of depreciation on plant additions is inadequate because ComEd's proposed adjustment does not include increases in the depreciation reserve that occurred when the post-test year additions went into service. Failing to account for increases in post-test year growth in depreciation reserve while recognizing post-test year growth in plant, GCI claims, distorts the revenue requirements calculation.

The ARES Position

The ARES Coalition supports the Staff and GCI proposed $11.038 million adjustment to Edison's rate base in order to properly include only that portion of actual amounts incurred through June 2001.

ComEd's Response

ComEd contends that Staff's and GCI's proposed $11,038,000 adjustment is incorrect. ComEd points out that as of the latest data as of ComEd's surrebuttal (as of September 30, 2001), ComEd actually had incurred and paid $123,680,000 on the projects in question, not the $115,554,000 incurred or paid as of June 30, 2001, and given that trailing expenditures would continue on the projects the original figure of $126,592,000 remained appropriate. This information, ComEd states was provided by Company witness Voltz. ComEd also contends that no party submitted any evidence that the trailing expenditures are inappropriate, nor any evidence supporting Staff's assumption that trailing expenditures are unusual. ComEd argues that Staff's and GCI's arguments that Mr. Voltz in his surrebuttal should have submitted supporting documentation of the additional costs actually incurred or expended after June 2001 as well as sworn testimony is arbitrary and goes even farther than the Commission position regarding documentation of projected costs that was reversed in the appeal from Docket 99-0117. ComEd states the Act does not limit utilities for recovery only of costs actually incurred by the filing date.

ComEd also contends that it was extremely conservative in those upward rate base adjustments, that it was legally entitled to include all jurisdictional plant reasonably expected to be placed in service by the date of the Commission's Order in this proceeding or within 12 months of the initiation of this proceeding. (e*.g.*, *In re*

Consumers Illinois Water Co., No. 97-0351, 1998 Ill. PUC Lexis 479 at *45-48 (Order June 17, 1998)); that it included only portions of the distribution plant additions it made in the first and second quarters of 2001; and that it included no such adjustments for the third and fourth quarters of 2001 or any period in 2002 even though ComEd continues and will continue to make such additions.

Regarding GCI's arguments in their corrected reply brief about "deviations" by ComEd in relation to rate base and the test year, ComEd notes that the rate base is determined on a cumulative, not a test year, basis. GCI also ignores the above rule regarding rate base additions and ComEd's conservatism in those adjustments.

ComEd responds to GCI's argument regarding depreciation reserves and contends that it correctly calculated the depreciation reserve impact of its adjustments. ComEd states that GCI acknowledges that ComEd correctly made that adjustment in the testimony of GCI witness Effron and refers to Effron's direct testimony, GCI Ex. 2.0 at page 40. ComEd contends that GCI's proposed adjustment to the depreciation reserve lacks support and is based on the erroneous assumption that the entire increase in the reserve from December 31, 2000, to June 30, 2001, is due to distribution plant additions, when, in fact, the reserve is an accumulating reserve for all distribution plant. ComEd also notes that the record reflects the correct annual depreciation rates, which ComEd applied. ComEd also pointed out that the effect of the depreciation reserve adjustment of $90,226,000 proposed by GCI actually would be improperly to shift the test year to the year ending on June 30, 2001, just for the accumulated depreciation reserve.

Commission Analysis and Conclusion

Although ComEd initially opposed this adjustment, the Movants, including ComEd, now support or do not oppose inclusion of it in this order. Based on the record, the Commission concludes that GCI's and Staff's $11,038,000 (gross amount) adjustment to ComEd's proposed $122,765,000 (net amount) (gross amount $126,592,000) *pro forma* adjustment for certain distribution plant that was reasonably expected to be (and in fact ultimately was) placed in service and serving retail customers in the second quarter of 2001, along with the associated adjustments for accumulated depreciation ($277,000), accumulated deferred income taxes and depreciation expense, is appropriate, is supported by the evidence in the record and is therefore approved.

The Commission also approves ComEd's voluntary gross downward adjustment of $1,014,000 which relating to the Northwest Project. The reduction results in a $14,000 reduction to accumulated depreciation and a $10,000 reduction of accumulated deferred income taxes, which are also approved.

The Commission however concludes that GCI's proposed depreciation reserve adjustment is flawed for the reasons stated in ComEd's Response above.

4. Other Adjustments to Rate Base (Non-Plant)

Budget Payment Plan Balances

Staff proposed a downward adjustment of $165,000 to ComEd's jurisdictional rate base relating to budget payment plan balances. Specifically Staff proposed an adjustment to reflect a 13-month average of Budget Payment Plan balances in the Company's test year rate base. Staff asserts that the average of Budget Payment Plan balances represents an overpayment by ratepayers. Therefore, Staff maintains that ratepayer supplied funds are available for the Company's use and should be deducted from the rate base on which the Company is expected to earn a return. In response to the Company's argument against the downward adjustment, Staff notes that the Company did not object to similar treatment in Docket 99-0117. Staff notes that in Docket 99-0117 the same adjustment added approximately $10 million to rate base. Further, Staff asserts it is appropriate to consider Budget Payment Plan balances as an independent component of rate base, whether or not working capital is also include because the Commission has done so in the past.

The Company argues that Budget Payment Plan balances are an element of cash working capital and because the Company chose not to request working capital in this current proceeding it should not be considered separately. ComEd argues that because the payment plan balances constitute just one component of working capital, to single out this issue and make an adjustment is unreasonable, and inconsistent with other Commission decisions. The Company claims that the removal of this one item from working capital would distort the costs attributable to jurisdictional delivery services and would violate the rationale of the prohibition against single issue ratemaking, if not the prohibition itself (which does not apply to non-base rate cases).

The Commission finds that ComEd's position on this issue is persuasive. While Staff makes a salient point relative to the Company' s exclusion of working capital from this proceeding while in the previous DST proceeding it chose to include working capital, to simply pick out particular working capital items that would result in a downward adjustment to the Company' s revenue requirement would be inappropriate. The downward adjustment sought by Staff, therefore, is not accepted.

5. Accumulated Deferred Income Taxes

GCI proposed a number of downward adjustments to ComEd's jurisdictional rate base relating to Accumulated Deferred Income Taxes ("ADIT"). ComEd agreed that five of these ADIT items had, through inadvertence, been incorrectly included in its jurisdictional rate base, and that these items would be removed. ComEd in rebuttal testimony of its witness, Mr. Hill, agreed that the five items should be removed. Staff concurs with this adjustment and the rate base impact was reflected in their Reply Brief. The removal of the five ADIT items reduces the Company's rate base by $64,737,000 (before allocation to wholesale customers). Staff states that there is no corresponding expense effect for this adjustment. The Commission agrees with GCI and concludes that it is appropriate to remove the five ADIT items from the Company's rate base. The adjustment in the amount of $64,504,000 (after allocation to wholesale customers) included in Appendix A, page 11 of 14 under the heading "Corrections to ADIT Balance" correctly reflects this change and it is therefore approved. GCI's remaining proposed adjustments to ADIT rely on GCI's underlying positions regarding the use of a labor allocator for General and Intangible Plant and operating reserves. Those proposals accordingly are not adopted in view of this Order's conclusions as stated in Sections II. C.2 and II.C.8 of this Order.

6. Plant Adjustments

a. Plant Expenditures for Q2 2001

This issue is addressed in Section II.C.3 of this Order as stated above.

b. Proposed Retired Plant

Staff proposes removing $32.157 million from gross distribution plant and accumulated depreciation and decreasing associated depreciation expense by $858,000. (Depreciation expense issues are discussed in more detail in Section II.D.3 (d)(xvi) of this Order.) Staff's proposal is based upon witness Gorniak's adjustment to remove from rate base plant which ComEd identified as no longer used and useful, but for which the Company had not yet recorded a plant retirement. Staff also states that the adjustment to jurisdictional net plant in service is zero. ComEd accepts Staff's proposed adjustment, including the analysis of no net impact on plant in service. GCI offered testimony on proposed retired plant, but did not offer a specific adjustment to ComEd's proposed rate base.

The Commission agrees with Staff and finds that the adjustments proposed by Staff to proposed retired plant accounts are just and reasonable and should be approved.

c. Retirements Related to 2001 Replacement Plant

Staff proposes an $11,060,000 adjustment to reflect the retirement of old plants that will be replaced by new plants, and that will be placed in service during 2001. Staff also states that the adjustment to jurisdictional net plant in service is zero. Staff also proposes an adjustment to decrease the associated depreciation expense by $279,000. ComEd accepts Staff's proposed adjustment, including the analysis of no net impact on plant in service.

The Commission agrees with Staff and finds that the adjustments proposed by Staff relating to replacement plant are just and reasonable and should be approved.

d. Accumulated Depreciation Adjustment Related to Overtime and Alleged Premiums Paid

ComEd's Position

ComEd opposes Staff's proposed plant adjustment related to alleged premiums paid to contractors, as discussed in Section II.C.7 of this Order. Even if the Commission were to accept Staff's adjustment, ComEd contends that adjustments should be made to Staff's related proposed adjustment to accumulated depreciation and depreciation expense. Specifically, ComEd disputes the depreciation rate, contending that part of the additions was for high voltage plant (which is depreciated at 2.4%), and suggests that the Commission use a composite depreciation rate for some of the adjustment.

ComEd also opposes Staff's proposed plant adjustment related to certain overtime paid to ComEd employees, as discussed in Section II.C.7 of this Order. As in the case of alleged premiums, ComEd contends that, even if the overtime adjustment were accepted, Staff's related proposed adjustment accumulated depreciation and depreciation expense should be modified. Specifically, ComEd disputes the calculation of Staff's proposed adjustment on the grounds that in some instances the use of a composite depreciation rate might be more appropriate than the rate used by Staff.

Staff's Position

In its Phase I testimony, Staff's proposed adjustment to decrease accumulated depreciation and depreciation expense related to alleged "premiums" would reduce accumulated depreciation by $0.904 million and would reduce depreciation expense by $0.603. (Staff's Phase II testimony recommends that the Commission incorporate all of the adjustments proposed in the Liberty report. Incorporation of these adjustments reduces the $0.904 million accumulated depreciation adjustment by $0.750 million to $0.154 million, and reduces the $0.603 million depreciation expense adjustment by $0.458 million to $0.145 million). Staff states the adjustment was computed based upon a 3.6% depreciation rate for non-high voltage distribution plant. In response to the Company's position that a portion of additions was for high voltage plant, Staff did inquire of the Company its basis for said position. Though Staff asked for clarification from the Company as to what overall composite depreciation rate it believed would be appropriate, Staff states that a proposed composite rate was never offered.

In its Phase I testimony, Staff's proposed adjustment to decrease accumulated depreciation and depreciation expense related to ComEd overtime would reduce accumulated depreciation by $0.317 million and would reduce depreciation expense by $0.240 million. (Staff's Phase II testimony incorporating Liberty's adjustments changes these amounts to $0.738 million and $0.693 million respectively.) This adjustment was computed based on a 3.6% depreciation rate for non-high voltage distribution plant. Staff disagrees with ComEd's suggested use of a composite depreciation rate for a portion of the adjustment.

ComEd's Response

ComEd, in addition to opposing the adjustments as stated above, also responds that the record contains sufficient evidence for the determination of average or composite depreciation rates for each of three periods: the second and first quarters of 2001 and the year 2000, as exemplified by Staff's methodology in relation to its average depreciation rate for its proposed adjustment to ComEd's *pro forma* adjustment for certain second quarter 2000 distribution plant.

Commission Analysis and Conclusion

The Commission finds the underlying Staff proposed adjustments relating to overtime and alleged premiums to be unwarranted, for the reasons discussed in Section II.C.7 of this Order. Thus, the proper calculation of the size of the related accumulated depreciation and depreciation reserve adjustments is moot. The Commission rejects the proposed adjustments.

e. Accumulated Deferred Taxes Adjustment Related to Overtime and Alleged Premiums Paid

ComEd's Position

ComEd opposes the adjustments, indicating that ComEd's overtime payments were roughly equivalent to the costs that ComEd would have incurred were additional workers hired, and that no premiums were paid.

Additionally, ComEd disputes the depreciation rate, contending that part of the additions was for high voltage plant (which is depreciated at 2.4%), and suggests that the Commission use a composite depreciation rate for some of the adjustment.

Staff's Position

Staff proposes a decrease to accumulated deferred income taxes ADIT related to alleged "premiums" paid to contractors, as discussed in Section II.C.5.d of this Order. In its Phase I testimony, Staff's proposed adjustment to decrease ADIT related to alleged "premiums" decreases accumulated deferred income taxes by $369,000. (Staff's Phase II testimony changes the amount of this adjustment to $0.082 million).

Staff's proposed a similar adjustment to decrease accumulated deferred income taxes for the plant adjustment related to ComEd overtime. Said adjustment in Staff's Phase I testimony decreases accumulated deferred income taxes by $94,000, and in Staff's Phase II testimony the comparable adjustment amount is $0.391 million.

ComEd's Response

ComEd, in addition to opposing the adjustments as stated above, also responds that the record contains sufficient evidence for the determination of average or composite depreciation rates for each of three periods, as discussed in Section II.C.6.d of this Order.

Commission Analysis and Conclusion

Because the Commission finds that Staff's proposed overtime and premium adjustments are not supported by the evidence as described in Section II.C.7 of this Order, the related adjustment to accumulated deferred taxes is not required.

7. Prudence of Distribution Capital Investment Costs

ComEd submitted a great deal of evidence in Phase I of this proceeding and on February 3, 2003 in its Phase II testimony responding to the Liberty audit report supporting the additions ComEd made to Distribution Plant that were included in its jurisdictional rate base. ComEd witness DeCampli identified the additions to ComEd's Distribution Plant that had been made since 1997 (expenditures not included in the Commission's review in Docket No. 99-0117), including five major projects that, standing alone, constitute approximately 12% of Distribution Plant additions. It is the Company's position that all the additions were reasonably necessary in order for Company to offer and provide delivery services at an acceptable level of reliability, and that the associated costs were prudent and just and reasonable. ComEd witnesses Helwig, Williams and Voltz also testified that these expenditures were all prudent, and the facilities used and useful in serving retail customers in ComEd's service territory.

ComEd states that no party suggests that the Company should not have made these additions to Distribution Plant. Further the Company claims that no party points to even a single distribution capital project that should not have been performed. Additionally, ComEd asserts that no party contends the additions are not used and useful in serving retail customers of ComEd.

a. Effect of Alleged Imprudence on Rates

ComEd's Position

ComEd contends that the imprudence Staff alleges would have no effect on the rates for which ComEd seeks approval of in this case. Staff suggests that ComEd's alleged deferrals of distribution capital projects must have increased ComEd's costs for such projects, and thereby increase ComEd's proposed rates requested here.

ComEd notes, however, that net rate base is determined on a cumulative, rather than a test year, basis, and that this is a fundamental fact of ratemaking and of how a revenue requirement is calculated. As a result, ComEd contends, deferrals of ComEd's capital expenditures do not affect ComEd's requested rates. ComEd explains that deferrals of its expenditures do not adversely affect customers and, in fact, generally financially benefit them. ComEd also explains that had ComEd built certain of its Distribution Plant additions earlier and had these projects been included in ComEd's rate base in an earlier ratemaking proceeding, customers would have been paying ComEd a return of and on the investment during the entire deferral period. Helwig Reb., ComEd Ex. 19.0, pp. 6-7. Moreover, ComEd explains that if it had taken longer to perform distribution capital projects, then, other than short term and small projects, they would have accumulated more AFUDC, increasing their costs.

ComEd also states that, as discussed in detail below, it has satisfied its burden by demonstrating that the costs included in its jurisdictional rate base were prudently incurred and just and reasonable. ComEd argues that, having proved its case and the burden of going forward with the evidence having shifted, a party, such as Staff, seeking to reduce ComEd's rate base by claiming imprudence must do more than offer conjecture and unsupported claims that ComEd allegedly mismanaged or neglected its distribution system in the past. Rather, ComEd contends, Staff must provide evidence demonstrating that such alleged past mistakes have led to a quantifiable incremental cost included in ComEd's proposed revenue requirement that would not have been incurred "but for" ComEd's alleged past management. ComEd argues that Staff has not met this burden through its own testimony (or through the Liberty audit discussed below), and has not refuted ComEd's more than ample evidence.

Staff's Position

Staff argues that ComEd imprudently neglected its distribution system causing it to degrade and become unreliable, and requiring premiums and overtime expense during the resulting emergency recovery period. In its Phase I testimony, Staff proposes disallowance for capitalized overtime and for time-related incentives. According to Staff, these costs which Staff characterize as "premiums" paid to contractors amounts to $25,964,000. In Phase II of this proceeding Staff revised the amount of this proposed adjustment to $27,648,000.

GCI's Position

In its Phase I testimony, GCI argued that the issue of ComEd's alleged imprudence required a more detailed investigation than is possible on the evidence and in the time available in this Docket. GCI contended, as stated above, that this issue should be addressed in the audit it has sought in Commission Docket 01-0664, and that any findings of imprudence in that audit should affect ComEd's rates.

GCI also argued that if the impact of ComEd's alleged imprudence were to be resolved in Phase I, the record would require a finding that ComEd has not met its burden of proof as to the prudence or reasonableness of "recovery program" expenditures relating to ComEd's distribution system. GCI claims that these expenses resulted from, for example, the alleged "overloading" of ComEd's system that may have lead to premature retirement of distribution equipment, thereby generating excess costs. GCI also claims that they resulted from the deferral of capital investments and maintenance that necessitated ComEd's accelerated "catch-up" work, which resulted in additional costs for quick construction. GCI argues that these costs were imprudent and should not be allowed in ComEd's rate base.

ComEd's Response

ComEd reiterates its position that when capital investments are made makes no difference in setting rates. ComEd contends that had it made certain of the challenged additions to the Distribution Plant earlier, those expenditures would simply have been included in rates sooner. Moreover, ComEd pointed out that the various other party arguments that distribution capital expenditures could or should have been completed earlier relies on an inappropriate definition of prudence. ComEd argues that additions to Distribution Plant are properly included in rate base if such additions are found to be prudent at the time of initiation of construction and used and useful in providing service to ComEd's customers at the time of completion of construction. ComEd contends that whether a project should or could have been built earlier does not equate to imprudence under this standard as a matter of law. Moreover, ComEd adds that it overwhelmingly met its burden of demonstrating that all distribution capital expenditures were prudent. It concludes that it has proven that no unnecessary costs attributable to "failures of the past" were included within ComEd's proposed rate base in this docket.

Commission Analysis and Conclusion

For the reasons described by ComEd above and for the additional reasons discussed in more detail in other sections of this Order dealing with the Liberty audit report and ComEd's testimony responding to that audit, the Commission finds that ComEd has satisfied its burden of demonstrating that the costs included in its jurisdictional rate base, including the overtime and alleged premium costs discussed by Staff, were prudently incurred and just and reasonable. The Commission finds Staff's proposed adjustments to be unwarranted.

b. Prudence of Specific Distribution Capital Investments in Rate Base

ComEd's Position

ComEd contends that it submitted evidence concerning the prudence of specific capital investments in its proposed rate base. ComEd asserts that it has designed a detailed procurement process to protect against overpayment for capital projects, which involves the use of volume-based purchasing and competitive bidding to ensure that contracts are awarded to the contractor that is best able to perform the quality of the work required on a particular project, within the necessary time frame, at the lowest total cost. ComEd also explains that its business processes ensure that invoices and disbursements are consistent with contract pricing, and that project budgets and construction schedules are maintained.

ComEd explains that additions to distribution plant were made necessary, in part, by the rapid and unanticipated load growth in certain parts of ComEd's service territory. ComEd also notes that other than Staff witness Larson, no party identified any specific plant or substation that may have experienced enhanced, inflated, or escalated costs, or specified any amount of such costs due to ComEd's alleged mismanagement. As to Mr. Larson's comments, ComEd provided evidence showing that the specific expenses on which he commented were, in fact, reasonable and prudent, as discussed in detail below.

ComEd submitted evidence concerning certain substation projects that were sometimes referred to as the "six pack" in this case. Some parties claim that the completion of these projects occurred on "accelerated" project schedules, resulting in increased costs. In response, ComEd explained that the six pack project schedules did not deviate from ComEd historical project schedules and that no premiums were paid for "accelerated" schedules. ComEd further explains that with the Diversey Substation project, it accelerated the permitting process through cooperation from the City of Chicago, and executed engineering and construction work concurrently, making project completion a reality in a mere six months. ComEd contends that this new streamlined process reflected proper utility planning and construction and permitted this significant project to be completed within historical project schedules. (ComEd also indicates that some of the "six pack" costs are not included in the revenue requirement, e.g., the Lakeview project was not placed in service and its costs are not included, and some of the costs are not jurisdictional.)

ComEd also contends that contrary to the assertions of certain parties, it did not pay "premiums" for expedited work or early completion of certain distribution capital projects from 1999 to Summer 2001. In its Phase I testimony, Staff challenges $16,293,000 of time-related incentives that ComEd paid to contractors in connection with these projects. In Staff's Phase II testimony, this amount is reduced to $4,778,000, although Staff also recommends inclusion of Liberty's additional $5,418,000 reduction for procurement premiums. ComEd explains that while it included time-based incentives for completion of certain distribution capital projects, it did not pay a "premium" – i.e., a price significantly above market value -- for any of those projects. ComEd also contends that the time-based incentives did not amount to a "premium" for accelerating a project completion date for a number of reasons. For instance, ComEd indicates, the distribution capital projects involving contracts that included time-based incentives were completed in a time frame consistent with ComEd historical project schedules and standard industry project schedules. In addition, ComEd notes, time-based incentives are a common practice in the construction industry and are in the best interests of customers and the utility in that these incentives ensure that contractors timely perform work necessary for the reliable and efficient operation of ComEd's distribution system while transferring certain risks of untimely completion away from ComEd and its ratepayers. ComEd further notes that no witness submitted any contrary evidence as to what they contend would be a just and reasonable cost for any of the distribution capital projects.

ComEd submitted testimony related to its purchase of two 138 kV transformers for which Staff proposes a downward adjustment of $449,000 relating to ComEd's purchase of these transformers. (This $449,000 is part of the figure of $4,778,000, above, from Phase II). ComEd contends, however, that it did not incur any significant incremental costs in connection with the expedited delivery of the two transformers between 1998 and 2000. In fact, ComEd argues, a review of all transformers purchased annually between 1998 and 2000 revealed that the difference in price between the most expensive and the least expensive transformer of each transformer type spanned a range from only 2% to 5%. ComEd also notes that, as conceded by Staff witness Larson, stockpiling materials and equipment, such as transformers, could itself result in higher costs.

In its Phase I testimony, Staff also asserts that ComEd paid premiums on certain capital distribution projects in the form of overtime pay to ComEd employees, and proposes a downward adjustment of $9,222,000 to ComEd's gross jurisdictional rate base to reflect capitalized overtime. Staff's Phase II testimony includes a further reduction of $13,648,000 recommended by Liberty, causing the total proposed downward adjustment for overtime to increase to $22,870,000. ComEd responds to this assertion by explaining that use of overtime is a normal construction industry practice and may, in fact, drive down costs in at least two separate ways. First, ComEd explains that because it pays for equipment 24 hours a day, whether or not the equipment is used, manning a project with additional shifts or extended hours leads to reduced equipment costs. Second, ComEd explains that it cuts down on indirect project costs of management and overhead when paying for a project completed over the course of one year rather than two years. ComEd also argues that Staff's calculation of the adjustment to ComEd's rate base due to improper overtime costs was flawed.

ComEd explains that Asea Brown Boveri ("ABB") was a contractor on several major distribution projects, and that it has significant expertise in the design, manufacturing, and construction of electric distribution systems, making it one of the few companies in the world capable of constructing ComEd's major distribution system projects. ComEd also explains that ABB was not in a position to charge ComEd inflated prices for the six pack projects because it had every interest to negotiate a fair market price to ensure a continuing role as ComEd's "partner" in future substantial distribution plant capital projects.

Staff's Position

Relying on "A Blue Print for Change" and the Liberty Consulting report, Staff concludes that ComEd was negligent in maintaining its distribution system during years prior to summer 1999. Staff further concludes that ComEd's imprudence caused its distribution system to become unreliable, requiring an emergency recovery period. Staff contends that during this emergency recovery period ComEd paid premiums to contractors and additional overtime to its own employees, which were not prudent expenditures. Staff proposes limiting capitalized overtime associated with ComEd construction activities during its emergency recovery period to the level of such capitalized overtime actually accrued in 1998. Staff suggests that this would reflect the fact that had ComEd rebuilt its system in a timely and controlled manner there would not have been nearly as many overtime hours. In its Phase I testimony, Staff proposes a total disallowance based on this theory of $9,222,000. (Staff's Phase II testimony changes this adjustment to $22,870,000 as explained above.) In its reply brief, Staff also argues that such a disallowance would be appropriate because extensive use of overtime can result in "worker burnout" and because ComEd's entire work effort was managed by a group of people who had never worked together before, which must have led to inefficiencies.

In its Phase I testimony, Staff proposed a further downward adjustment to ComEd's proposed Distribution Plant in the amount of $16,293,000 (reduced in Phase II, as noted above), representing what it characterizes as premium incentive payments by ComEd to ABB to complete construction of capital projects in an expedited time period. (As explained above, Staff's Phase II testimony reduces this amount to $4,778,000, but also adopts Liberty's $5,418,000 reduction for procurement premiums.) Staff claims such premium expedited costs result entirely from ComEd's imprudence in not maintaining and planning its distribution system prior to summer 1999. In its reply brief, Staff also argues that ComEd used accelerated schedules, including schedules that constituted "world record schedules." Finally, Staff argues that ComEd paid an additional $449,000 for a transformer when a lower price was available but its vendor could not meet ComEd's time requirements. Staff proposes that this amount also be disallowed. The grand total of disallowances of these specific distribution capital investments (excess overtime and contractor premiums) proposed by Staff in its Phase II testimony is $27,648,000 (gross plant in service).

Further, Staff also argues that ComEd's situation was analogous to the situation of CILCO in Docket 94-0040. In that docket, CILCO had ignored maintenance and repair of its cast iron gas mains in the city of Springfield to the point where it was no longer able safely to perform its function to deliver gas. CILCO management was directly responsible for the deterioration, but did nothing. In that case the Commission ordered disallowance of some of the expenses associated with the Springfield renewal program due to the imprudence of CILCO. Staff argues that CILCO's conduct was similar to ComEd's.

GCI's Position

GCI makes no separate argument on the subject of the prudence of specific distribution capital investments in rate base. It identifies no specific component of rate base that it contends resulted in excess costs. Instead, GCI argues as described above, in general, that ComEd acted imprudently in the past in connection with maintaining its distribution system. GCI further contends that ComEd made a deliberate decision not to quantify the costs caused by its past imprudence and that it could not identify such costs without an audit. GCI also argues that ComEd had not met its statutory burden of proof as to the prudence or reasonableness of its recovery program and that all testimony of ComEd's witnesses on this subject should be rejected. Relying upon ComEd's "A Blue Print for Change" and a report by the Electric Power Research Institute Inc., GCI contends further that overloading of ComEd's distribution system may have led to premature retirement or failure of distribution equipment, thereby generating excess costs. It also contends that ComEd's deferred capital investments and maintenance necessitated accelerated "catch up", which could include additional costs for quick construction. It does not attempt to quantify any such costs.

ComEd's Response

ComEd contends that Staff and GCI are speculating when they claim that accelerated distribution system "catch up" construction must have included some increment of cost. ComEd then points out in great detail the evidence that it argues supports the prudence of its Distribution Plant additions. It outlines the testimony of Mr. DeCampli and describes the methodology he used with respect to each of five major projects in analyzing whether the cost of those facilities was reasonable and prudent. It points out that Mr. DeCampli's testimony was based upon quantitative data, including a study of the costs incurred in connection with acquisition of the fifty-nine 138kV transformers ComEd purchased from 1998 to 2000. ComEd contends that these costs increased only slightly, thereby supporting the argument that no "catch up" costs were incurred in connection with major additions to Distribution Plant. ComEd also discusses in detail the testimony of Dr. James Williams. According to ComEd, Dr. Williams explains why the project schedule for major plants was never accelerated and did not involve inflated costs. ComEd then explains how Dr. Williams' testimony distinguishes between an overpayment as compared to market price for construction of a particular distribution system capital project and a typical time based incentive designed to shift the economic risk of not meeting a completion date from the owner to a contractor. Next, ComEd discusses the testimony of Mr. Helwig and his assessment of the nature, cost and reasonableness of major projects. Specifically, ComEd notes, Mr. Helwig found such project costs to be reasonable and he attributes the need for a substantial portion of those capital projects to unexpected increases in load. ComEd also details Mr. DeCampli's testimony regarding the amount of increased load.

ComEd also refuted the contention that it did not support its costs in discovery or was not forthcoming on the subject of whether its revenue requirement included incremental costs due to past imprudence. ComEd answered thousands of questions posed through data requests and produced voluminous information and documents. For example, ComEd produced over 30,000 pages of documents regarding the distribution capital projects it constructed from 1998 to 2001. ComEd contended that it proved that its revised revenue requirement simply did not include any incremental costs incurred due to imprudence.

ComEd notes that no GCI witnesses could identify a single individual distribution capital project performed by ComEd after 1997 that involved inflated or "catch up" costs, or that should have been constructed earlier based on the information then available to ComEd. ComEd also addressed the absence of any evidence of overloading upon transformers that led to a specific need to replace such transformers early. In addition, ComEd explains that its computer system tracks project costs in a way that does not facilitate retrieval of information based upon whether particular tasks were prudent or imprudent. ComEd maintains its accounting system is in accordance with FERC and Illinois Uniform System of Accounts. ComEd challenges GCI's claim of untimely data request responses, noting that GCI first submitted data request responses to ComEd only 28 days prior to the filing of other party direct testimony.

ComEd points out that its overtime costs were reasonable and that overtime should not be measured against a 1998 benchmark, given that other parties in this proceeding argue that 1998 expenditures were substandard. Finally, ComEd argues that the CILCO situation presented in Docket No. 94-0040 is distinguishable. It points out that CILCO was admittedly guilty of deliberate indifference to a true public health hazard and falsified documents. This is clearly not the case with ComEd.

The Liberty Audit

As described in the prefatory section of this order, following the conclusion of Phase I of this proceeding, The Liberty Consulting Group conducted the audit ordered by the Commission in Docket 01-0664. The scope of the audit was prescribed in the Commission's Order in that Docket. Liberty's Audit Report concluded, among other things, that ComEd's rate base was overstated based on Liberty's findings that ComEd under-invested in its distribution system and in maintenance in the period from 1993 to 1998 and that this resulted in increased costs of distribution capital additions in 1999 and 2000. More specifically, Liberty's findings were that ComEd's rate base was overstated because ComEd had failed to conduct necessary distribution capital additions or adequate levels of system maintenance in past periods and that these failures resulted in ComEd adding capital additions at cost levels which were higher than they otherwise would have been if they had been made on a systematic basis at the appropriate time. Liberty utilized a capital smoothing analysis to attempt to identify the additional costs that Liberty concluded were included in ComEd's rate base claim but which could have been avoided if capital additions had been made on a more regular basis. The Liberty Audit Report also identified additional capital expenditures which, in Liberty's view, resulted from ComEd's need to complete a large number of distribution capital additions in a very short period of time without necessary planning and which resulted in contractor charges at unreasonably high levels because of the level of overtime included in the contract prices. Liberty stated, in part: " While the available information about certain projects such as LaSalle was persuasive, Liberty did not definitively conclude that any given deferral or design change was either prudent or imprudent. Instead, Liberty considered it to be more consistent with the available information, and with the integrated nature of system planning, to base its analysis on general trends in spending on capital additions." Liberty Report at III-62. Liberty, based on these and other findings proposed a reduction in ComEd's distribution net plant of about $109 million, the largest portion of which --$66.7 million -- is based on Liberty's under investment/capital deferral analysis (including its "capital smoothing" methodology). The total adjustments to ComEd's rate base proposed by Liberty are:

Summary of Distribution Rate Base Adjustments ($000)

Adjustment Category	Interim Order	Liberty	Net	Report Ref.
Distribution Plant in Service				
In-Service Dates	-	$21,709	$21,709	III-1
Less: double counting of adjustments	-	(1,976)	(1,976)	III-1
Procurement	-	5,546	5,546	III-1
True-Ups and Corrections	$12,052	12,580	528	III-1
Excess AFUDC	-	7,449	7,449	III-1
ComEd Overtime	9,222	23,097	13,875	III-1
Contractor Overtime	16,742	4,926	(11,816)	III-1,2
Project Management	-	8,891	8,891	III-2
Unrecorded retirements	43,217	171,588	128,371	III-2
New depreciation method	-	123,821	123,821	III-2
Capital Deferrals	-	66,743	66,743	III-2
CWIP – Customer Service/Info.	-	38	38	IV-2
Sub-Total Dist. Plant Adjust.	$81,233	$444,412	$363,179	III-2
Accum. Deprec. - Dist. Plant Adjust.	(44,729)	(299,971)	(255,242)	III-2
Deferred Taxes - Dist. Plant Adjust.	(525)	(2,153	(1,628)	III-2
Net Dist. Rate Base Downward Adjustments	**$35,979**	**$142,289**	**$106,310**	

ComEd's Response To The Liberty Audit Report

In response to the Liberty audit report, ComEd introduced the Phase II direct testimony of the following witnesses:

Robert W. Donohue (ComEd Ex. 101.0), Senior Vice President of Consolidated Edison Company with responsibility for ConEd's New York City and Westchester County electric distribution system. Mr. Donohue, who retired on February 1, 2003 after a 40-year career with ConEd testified that, contrary to the assertions in Liberty's report, the levels of distribution capacity additions made by ComEd from 1991 through 2001 were reasonable when compared to changes in weather-adjusted load, that ComEd's "average weather" planning standard used during most of the 1990s was reasonable and in line with the approach that many other utilities followed during the same period, and that criticisms that Liberty has made about the costs of ComEd's 1999-2000 substation construction projects, such as Liberty's contention that overtime should not exceed 10% for ComEd employees and 20% for contractors, are unreasonable.

Karl A. McDermott (ComEd Ex. 102.0), who served as an ICC Commissioner from 1992 to 1998 and who is now Vice President of National Economic Research Associates, testified that Liberty failed to apply the standard used by the ICC when assessing the prudence of utility expenditures because Liberty did not assess ComEd's individual spending decisions, confining its review to facts that were known to management at the time that decisions had to be made but, instead, relied on hindsight characterizations and self-critical statements of the type that the ICC has long concluded are not an appropriate basis on which to make a finding of imprudence.

Robert K. McDonald (ComEd Ex. 103.0), Vice President, Risk Management, of ComEd's parent corporation, Exelon Corporation, testified that Liberty's proposal to reduce ComEd's distribution rate base by $66.743 million based on an 11-year capital addition "smoothing" theory is inconsistent with an appropriate approach to capital budgeting and resource allocation, and that Liberty's methodology for calculating its proposed disallowance is fundamentally flawed because, among other things, it considers FERC-jurisdictional transmission expenditures that are not the subject of this proceeding, it does not take into account the fact that portions of the capital expenditures Liberty seeks to remove from rate base are not even included in the rate base, and it ignores the time value of money.

Ron Williams (ComEd Ex. 104.0), formerly manager of the San Francisco division of Pacific Gas & Electric Company and now one of the principal consultants used by the Electric Power Research Institute ("EPRI") to evaluate electric utility distribution system policies and practices throughout the country, testified that Liberty's proposal to disallow $90 million of ComEd's 2000 distribution O&M expenses based on a 1991-2004 trend line analysis is unreasonable, is based on unwarranted assumptions and other methodological flaws, and is not supported by an analysis of the reasonable O&M expenses levels required in 2000 to provide reliable service to ComEd's customers. Mr. Williams also analyzes Liberty's proposed disallowance of $66.743 million of ComEd's distribution capital additions, concluding that Liberty's assumption that ComEd "under-invested" in distribution capital projects during the 1990s is unsupported and incorrect, that Liberty's suggestion that variations in the annual levels of distribution capital additions in the utility industry are unusual or unreasonable is simply wrong and that variations in annual expenditures do not support a finding of imprudence or a disallowance of capital expenditures on any other basis.

Professor Morton I. Kamien (ComEd Ex. 105.0), from Northwestern's Kellogg Graduate School of Management, testified that any proposal to reduce ComEd's distribution rate base on the theory that capital projects should have been constructed in earlier years must take into account the fundamental economic concept of the time value of money and compare the rate at which costs escalated over time with the cost of capital that would have been incurred over the same period. Failure to take the time value of money into account results in erroneous conclusions about the economic effects of building capital additions in earlier years as compared with building them in the 1999-2000 time frame.

Morris Jacobs (ComEd Ex. 106.0), an experienced utility consultant, formerly with Navigant Consulting, Arthur Young & Company and Sargent & Lundy, testified that when the time value of money is taken into account, Liberty's proposal to move $270 million of ComEd's 1999-2000 distribution capital expenditures to 1993-1998 would have increased costs because ComEd's cost of capital has exceeded the cost escalation rate for construction projects over the 1993-2000 period. Mr. Jacobs also applies the same methodology used in the CILCO pipeline case on which ICC witness Bruce Larson relied in first raising the capital timing question in this proceeding. Applying that same methodology, Mr. Jacobs shows that moving ComEd's capital projects back in time would not have saved money, would actually have increased costs and therefore provides no basis for reducing ComEd's delivery services rate base in this case.

Daniel Halpin (ComEd Ex. 107.0), Head of Purdue University's Division of Construction Engineering and Management, testified that Liberty's recommendation to disallow a portion of the capital costs of ComEd's 1999-2001 substation construction projects is unreasonable because it is based (i) on flat percentage overtime limitations that are inconsistent with project scheduling requirements and normal construction practices and (ii) on unsupported assertions of construction mismanagement.

Dr. James B. Williams (Com Ed Ex. 108.0), formerly ComEd's Vice President, Project and Contract Management, provided detailed responses to Liberty's proposed disallowances of projects costs attributable to (i) overtime, (ii) alleged project mismanagement and (iii) purchasing and acquisition programs, demonstrating that there is no basis for such disallowances. Dr. Williams explains that the costs that Liberty seeks to disallow were prudent and reasonable and are properly reflected in ComEd's proposed delivery services rates.

Michael F. Born, P.E. (ComEd Ex. 109.0), Consulting Engineer with ComEd's Distribution Planning Department, testified that ComEd followed reasonable distribution planning criteria in deciding which distribution capital projects to construct during the 1990s, that the projects called for by those criteria were constructed, and that the planning criteria did not call for construction of $270 million of ComEd's 1999-2000 distribution capital projects in 1993-1998.

Kathyrn Houtsma (ComEd Ex. 110.0), testified that, contrary to Liberty's suggestion in various sections of its report, ComEd's accounting for distribution capital and O&M expenses in 1999-2000 was in conformance with FERC standards, Generally Accepted Accounting Principles, and consistent practice, approved by ComEd's outside auditors. Ms. Houtsma explains that ComEd's financial accounting systems have always complied with applicable standards, that periodic upgrades to the systems were examples of laudible best practices, and that the Company's accounting systems and records posed no unreasonable limitation on Liberty's ability to obtain the type of financial information that is appropriately maintained by an electric utility.

Joseph Frangipane, CPA (ComEd Ex. 111.0), former Director of the Federal Energy Regulatory Commission's Audit Division, testified that Liberty is incorrect in contending that FERC accounting rules or GAAP require that the costs incurred by ComEd in 1999-2000 on distribution capital projects (or O&M expenditures) be recorded in separate, "extraordinary item" accounts on ComEd's financial statements.

Jerome P. Hill (ComEd Ex. 112.0), ComEd's Director of Revenue Requirements, testifies in detail about errors in Liberty's methodology, assumptions and proposed disallowances, demonstrating, for example, that Liberty's report (i) incorrectly calculates the decrease in accumulated depreciation resulting from Liberty's proposed depreciation rates; (ii) double counts the proposed Northwest project disallowance; (iii) fails to reflect its own finding that distribution plant should be increased for capitalized incentive compensation; (iv) layers redundant, proposed A&G expense disallowances on top of reductions already resulting from the Interim Order's labor allocator methodology; and (v) proposes numerous other disallowances that are unsupported by the facts made availability to Liberty during the audit. In addition, in response to Liberty's contention that costs during the 2000 test year are atypical and unrepresentative of ComEd's normal, ongoing costs, Mr. Hill presents a study of ComEd's actual 2001 delivery services expenses that shows that ComEd's proposed revenue requirement is reasonable and that Liberty's recommended reductions are unwarranted.

Paul R. Crumrine (ComEd Ex. 113.0), ComEd's Director of Regulatory Strategies and Services, testified that many of Liberty's proposed disallowances are inconsistent with applicable ratemaking standards applied by the ICC because they ignore requirements for pro forma adjustments, broadly disallow costs as nonrecurring without regard to appropriate application of test year principles, and selectively impose unwarranted downward levelization adjustments.

Staff submitted Phase II direct testimony that did not address the merits of Liberty's proposed adjustments. GCI submitted the testimony of David Effron (GCI Ex.7.0) regarding some of the adjustments.

The Parties' Testimony on Rebuttal

GCI submitted the Phase II rebuttal testimony of Mr. David Effron. Mr. Effron responded to portions of the Phase II direct testimony of ComEd, in particular, that of ComEd witnesses on issues relating to the Liberty audit methodology, ComEd's accounting for its recovery costs, and the derivation of the proposed revenue requirement.

Staff submitted the rebuttal testimony of Bryan C. Sant (Staff Exhibit 30) who presented schedules that calculated ComEd's revenue requirement assuming Liberty's adjustments and modifications thereto proposed by Staff were adopted. Mr. Sant also responded to certain accounting issues raised in the testimony of ComEd witness Hill.

Scott A. Struck (Staff Exhibit 31) testified with respect to ComEd's benchmark 2001 revenue requirement comparison; modifications proposed to various Liberty adjustment by ComEd and GCI witness Effron; GCI witness Effron's recommendation that the Commission not adopt Liberty's proposed adjustment for capitalized incentive compensation costs as well as ComEd witness Hill's and GCI witness Effron's recommendation that, if the Commission does accept this adjustment, the corresponding rate base adjustment should be made for the costs so capitalized; GCI witness Effron's recommendation that the Commission not adopt Liberty's proposed adjustment to the depreciation rates; and ComEd's recommendation that, if the Commission does accept this adjustment, the corresponding rate base adjustment to accumulated depreciation should be made as well.

Burma C. Jones (Staff Exhibit 32) testified in response to ComEd's treatment of tree management expense in its revenue requirement filed in response to the Liberty audit report.

Bruce A. Larson, P.E. (Staff Exhibit 33) testified to his review of ComEd's critique of the Liberty audit and responded to portions of the additional direct testimony of ComEd witnesses Ms. Juracek, Mr. Born, Mr. Donohue and Dr. Williams.

Mike Luth (Staff Exhibit 34) submitted revised delivery services rates for all customer classes. Mr. Luth's delivery services rates were developed from the revenue requirement shown in Staff witness Sant's Exhibit 30.0, Schedule 1, which includes the adjustments designated in the Interim Order and the proposed adjustments from the Liberty Audit Report. Mr. Luth also replied to ComEd witness Crumrine's comments on demand ratchet billing and the high-voltage credit (Rider HVDS). In addition, Mr. Luth also replied to ComEd witness Hill's criticism of the Commission's Interim Order that accepts the use of a general labor allocation factor to determine Intangible and General Plant-in-Service capital costs and Administrative and General Expense to be recovered through delivery services rates.

Liberty presented the panel rebuttal testimony of Messrs. John Antonuk and Robert Stright (Liberty Ex. 2.0). The panel responds to various portions of the testimony of twelve ComEd witnesses and Mr. Effron. The panel provides Liberty's explanation of why the protocols for the audit were different from those usually applicable. The panel testifies that because of Liberty's view of the procedure in this case, it has treated the direct testimony criticizing portions of the audit Report much like comments that Liberty says it would normally have received on a draft audit report. The panel, therefore, provided its evaluation of the testimony in that vein.

In response to testimony from various ComEd witnesses that the Liberty Report findings were based merely on the application of a "trend line" analysis and hindsight, the panel summarized and restated the bases of Liberty's conclusion that ComEd had under-invested in distribution capital additions from 1993 to 1998. They pointed in part to (1) Liberty's three prior reports relating to ComEd, (2) the 90 recommendations in those reports, (3) ComEd's acceptance of "all but one" of the recommendations, (4) Liberty's review of thousands of pages of documentation regarding ComEd's distribution additions, and (5) statements in internal ComEd reports and a US Department of Energy ("DOE") report that Liberty contends support its conclusions.

The Liberty panel also submitted detailed responses to portions of the direct testimony of ComEd witnesses regarding Liberty's proposed rate base adjustments. The panel organized its testimony by reference to the witnesses to whom it was responding.

The Liberty panel presented testimony differing with ComEd witness Bill Donohue regarding the significance of ComEd's weather-adjusted load data in relation to ComEd's distribution planning criteria and decisions, whether ComEd's weather criterion in its planning criteria was an accepted standard, and the causes and levels of ComEd capitalized overtime. The panel testified that factors other than weather-adjusted peak loads must be considered, including system design and configuration, and the quality of maintenance planning and performance. The panel testified in support of Liberty's 10% overtime factor and its conclusion that based upon their review of the historical data and their experience, the levels of overtime experienced were related to the need to take steps to "catch up.".

The panel testified, in response to ComEd witness Dr. Karl McDermott, that Liberty did not rely on hindsight, because it only relied on data and information that ComEd had or should have had, and pointed to Liberty's prior reports, its review of thousands of pages of documentation, and statements in internal ComEd reports and the DOE report. The panel testified in support of Liberty's conclusions regarding the timing of ComEd's aggregate levels of capital additions.

The Liberty panel testified, in response to ComEd witness Robert McDonald, that Liberty had acted reasonably in using total T&D capital additions in the "capital smoothing analysis", stating that ComEd itself had indicated during the audit that there was no accurate way to split the transmission additions from the distribution additions, and that the capital smoothing analysis "credited" ComEd with some investments in 1991 that would actually have been made in 1990. The panel also testified that Mr. McDonald's methodology for splitting the additions was flawed.

The Liberty panel testified, in response to ComEd witness Ron Williams, that Liberty had appropriately used the "trend line" analysis to calculate the impact of ComEd's actions, not to find imprudence, that ComEd did not have available data that quantified its "recovery" costs in any other reasonable way, criticized Mr. Williams' analyses on several grounds, contended that his analysis in part supported Liberty's conclusion that ComEd had some "catch-up" costs, and disputed that Liberty's proposed level of cost recovery was below that needed to maintain reliable service given ComEd's pre-1998 spending levels and its projected future expenditures.

With regard to the ComEd witnesses Prof. Morton Kamien and Morris Jacobs, the Liberty panel testified that there is no dispute about the concept of the time value of money, but differed with the propriety of Mr. Jacobs' application of that concept, on several grounds, including the panel's view that it is inappropriate to apply to original cost rate base calculations and did not factor in reliability consequences. The panel testified that it is not appropriate to adjust ComEd's original cost rate base for the time value of money associated with delaying capital additions, when no other rate base item or revenue requirement input are similarly adjusted.

The Liberty panel presented testimony responding to Prof. Daniel Halpin as to the reasonableness of ComEd's capital addition planning, and its use of overtime. The panel testified that Liberty's approach to overtime was "reasonable and extremely conservative".

The Liberty panel presented testimony differing with Dr. James Williams as to his testimony regarding the reasonableness and prudence of ComEd's capital additions. The panel testified in support of the conclusion that ComEd's planning was not reasonable. The panel pointed to Liberty's prior reports, statements by ComEd, the DOE report, and other data.

The Liberty panel presented testimony that differed with Michael Born, P.E., as to whether ComEd's distribution planning and construction were adequate in the period before the 1998 and 1999 outages. The panel again pointed to prior Liberty reports and prior ComEd statements. The panel testified that Mr. Born's standard for measuring imprudence in distribution planning and implementation is too lenient. The panel also presented testimony defending Liberty's conclusions as to the in-service dates of certain projects.

Finally, the Liberty panel presented Liberty's differences with the "revenue requirement comparison" analysis presented by Paul Crumrine. The panel testified that that analysis is not relevant to the reasonableness of ComEd's rate base.

Liberty also presented the panel testimony of Messrs. John Antonuk and Dennis Kalbarczyk (Liberty Ex. 3.0). This panel testified in response to ComEd witness Jerome P. Hill. The panel, once again, defended the approaches adopted by Liberty in the Report, but, where it deemed appropriate, did acknowledge that Mr. Hill had demonstrated the grounds for a number of revisions to or refinements of Liberty's recommendations. The Liberty panel testified that some of the data on which Mr. Hill relied was new data, not presented in the audit.

ComEd submitted the rebuttal testimony of six witnesses (Mr. Hill submitted both Rebuttal and Supplemental Rebuttal Testimony). Mr. Paul Crumrine (ComEd Exhibit 116.0) testified that how problems with Liberty's October 4, 2002 Audit Report that ComEd identified in its Phase II direct testimony applied equally to recommendations offered by GCI parties and Staff to the extent that they accepted Liberty's recommendations. Mr. Crumrine responded to GCI witness David Effron's claim that "recovery costs" incurred by ComEd, as defined by Liberty, are non-recoverable, and explained how Mr. Effron's and Staff's Phase II direct testimony with respect to these recovery costs failed to consider the prudence standard. Mr. Crumrine also responded to Mr. Effron's claim that ComEd failed to supply adequate information to Liberty. In addition, Mr. Crumine refuted to Staff witness Mike Luth's proposal to reject cost-based rates for the Fixture-included Lighting and All Other Lighting classes based on the cost of service study approved by the Commission in its April 1, 2002 Interim Order (as revised).

Dr. Karl A. McDermott (ComEd Exhibit 117.0) testified that Mr. Effron's discussion of numerous alternative trend-line methodologies for distribution O&M expenses illustrates that Liberty's trend-line approach lacks any principled foundation.

Dr. McDermott also challenges GCI's basic assumption that ComEd's "recovery costs" are per se not recoverable, explaining that the recoverability of these costs must be assessed under standard prudence and ratemaking principles. In addition, Dr. McDermott testifies that notwithstanding Mr. Effron's contentions to the contrary, the information that ComEd provided during the audit was of the type required both to conduct, and to evaluate, a prudence audit of ComEd's investment decisions and test year expenses.

Ron Williams (ComEd Exhibit 118.0) testified that none of the alternative trend-line methodologies that Mr. Effron discusses is any more valid than Liberty's own trend-line approach, and none lends any support to using Liberty's approach. In addition, in response to the assumption that ComEd's "recovery costs" are per se not recoverable, Mr. Williams shows that ComEd's test-year expenses, even including what Liberty calls "recovery costs," were by no means out of line with the level of expenditures that would be expected from a reliable utility of ComEd's size and type. Further, Mr. Williams identifies a number of shortcomings in Mr. Effron's endorsement of Liberty's 3.045% escalator for ComEd's distribution O&M expenses.

Michael F. Born, P.E. (ComEd Exhibit 119.0) testified that ComEd's comprehensive production of information during the audit contained ample information for Liberty to conduct a proper prudence audit of ComEd's costs and decisions, or for other parties to evaluate the quality of Liberty's audit, with respect to major capacity projects (including those specifically discussed by Liberty). In addition, Mr. Born supports Mr. Effron in regard to his inclusion of 1997 test year O&M refunctionalization approved in the Commission's Order in ComEd's 1999 delivery services rate case (Docket No. 99-0117) and testifies as to the effect of using that data.

Jerome P. Hill (ComEd Exhibits 114.0 and 120.0) discusses the failure of Mr. Effron and Staff witness Bryan Sant to correct for the Audit Report's failure to properly reflect the impacts of proposed adjustments. Mr. Hill also shows how GCI's and Staff's overlay of the Audit Report's conclusions on the Interim Order's revenue requirement reveals an overstatement of the distribution expense reduction recommended in the Audit Report. In addition, Mr. Hill addresses Mr. Effron's allocation to wholesale customers of a portion of Distribution O&M. Mr. Hill also comments on Mr. Effron's claims about incentive compensation and depreciation expenses. Mr. Hill also discusses Mr. Effron's identification of Liberty's error in not reflecting the pro forma adjustment for salaries and wages. Finally, Mr. Hill also presents a revised proposed jurisdictional revenue requirement.

In his supplemental rebuttal testimony, Mr. Hill provides a schedule in the form of Appendix A to the Interim Order that has been revised to reflect the 2000 test year revenue requirement of $1,517,000,000 (exclusive of Miscellaneous Revenues) supported or not opposed by the Movants based on the evidence in the record. Mr. Hill also describes an adjustment to Liberty's proposed reduction in ComEd's distribution O&M expenses.

Mr. Lawrence S. Alongi and Mrs. Sharon M. Kelly (ComEd Exhibit 115.0) testify as to the derivation of rates and charges reflecting the provisions of the proposed order supported by the Movants, including (1) a revised calculation of the Rider HVDS – High Voltage Delivery Service (Rider HVDS) credit, and (2) charges under Rate RCDS – Retail Customer Delivery Service (Rate RCDS) based on the 2000 test year revenue requirement of $1,517,000,000 (exclusive of Miscellaneous Revenues) supported or not opposed by the Movants and reflecting the phase-in of the Rider HVDS credit beginning with the June 2003 monthly billing period through the June 2006 monthly billing period.

Commission Analysis and Conclusion

The Commission finds that the Company has met its burden of proof that proposed specific additions to Distribution Plant are used and useful and were built for a reasonable and prudent cost. ComEd has provided credible and specific testimony based upon assessments of the major projects included in its proposed additions to Distribution Plant in its rate base. The Commission finds that Staff's proposed $9,222,000 adjustment for capitalized overtime and its proposed $16,742,000 adjustment for alleged contractors' premiums (including related adjustments to accumulated depreciation and accumulated deferred income tax) are not supported by the evidence in the record, are not reasonable and are therefore rejected.

In addition, except as indicated below, the recommendations for reductions in ComEd's delivery services rate base made by Liberty in its audit report are not supported by the evidence in the record taken as a whole. The evidence submitted by ComEd supports rejection of Liberty's recommendations. Based on the record as a whole and, in particular, ComEd's evidence summarized above (which the Commission finds to be reasonable and well-supported), the Commission therefore rejects such recommendations, including Liberty's "capital smoothing" adjustment in the amount of $66,743,000, its 5% project mismanagement adjustment in the amount of $8,891,000, its "rushed procurement" adjustment in the amount of $5,546,000, its ABB expediting charge adjustment in the amount of $1,963,000, its employee overtime adjustment in the amount of $23,097,000, its ABB overtime adjustment in the amount of $1,191,000, its non-ABB contractor overtime adjustment in the amount of $1,772,000, and its Antioch excess AFUDC adjustment in the amount of $2,088,000.

In particular, the Commission finds that Liberty's proposed $66,743,000 "capital smoothing" reduction in ComEd's rate base is not supported by the evidence in the record taken as a whole. Liberty specifically states that it "did not definitively conclude that any given deferral or design change was either prudent or imprudent." Liberty Report at III-62. While we understand Liberty's points relating to the integrated aspects of distribution system planning and construction, the evidence, nonetheless, does not show that ComEd should have constructed $270 million of its 1999-2000 distribution capital additions in 1993-1998 and that it was imprudent not to have done so. In addition, the testimony of ComEd witness Michael Born shows that ComEd applied reasonable distribution design criteria during those years to identify those projects that should be constructed, and those criteria did not call for the construction of any of the $270 million of projects Liberty contends should be moved back in time. While Liberty has presented substantial information and factors in support of its conclusion, the evidence is not sufficient to overcome ComEd's showing that the distribution capital investment decisions made by ComEd in 1993-1998 were reasonable taking into account the facts that were available at the time. Moreover, the evidence, including the testimony of Mr. Robert Donohue, shows that ComEd's distribution capacity additions throughout the 1991-2001 period analyzed by Liberty closely tracked increases in weather-adjusted load.

The Commission also finds that Liberty's analysis of the effects of ComEd's prior actions does not support the conclusion that ComEd's distribution capital investments in 1999 and 2000 were inflated by ComEd's not making a higher level of investment in 1993-1998. Year to year variations in capital addition levels are quite common throughout the electric utility industry, as indicated by the comparisons presented by EPRI consultant, Ron Williams. While we note that Liberty has presented testimony defending its approach in these circumstances, and given the available data, Liberty's reliance in its quantification methodology on the premise that capital additions should remain roughly at the same levels year after year is not supported by the evidence, and is rejected by the Commission.

In addition, Liberty did not adjust its capital smoothing analysis to take into account the fundamental economic principle of the time value of money, which ComEd witnesses Kamien and Jacobs, as well as Staff witness Bruce Larson, agree must be taken into account. When the time value of money is taken into account, the evidence shows that Liberty's proposal to move $270 million of ComEd's 1999-2000 capital investments back in time to the 1993-1998 period actually increases costs by at least $35 million, even taking into consideration Liberty's allegation that approximately $49 million of "excess" overtime, expediting and project mismanagement costs were incurred to complete the work in 1999-2000. While, as indicated above, Liberty presented the factors it relied upon for taking a different view, we disagree with Liberty's view that such an adjustment for the time value of money is inappropriate in this instance. We conclude, based on the specific circumstances and evidence presented here, that such an adjustment is proper. Of course, rejecting this proposed adjustment in part on this basis does not weaken in any way the obligation of utilities to take prudent action to provide adequate and reliable service, which is discussed above. Nor does rejecting this proposed adjustment mean that the Commission is absolving ComEd of any failures it may have had to maintain the integrity and reliability of its distribution system. This finding goes only to the prudence and reasonableness of ComEd's expenditures and investments.

The Commission also finds that Liberty's analysis should not be accepted for additional reasons. Liberty included transmission assets in its analysis, even though those assets are not part of ComEd's delivery services rate base. Liberty points out that ComEd stated during the audit that there is no accurate methodology to split transmission assets from distribution assets in Liberty's capital smoothing analysis given the available data. Liberty also criticizes the accuracy of the separation methodology used in ComEd's testimony. We agree with ComEd that, for purposes of that analysis, however, it is more accurate to use the approach presented by ComEd's testimony than not to make any adjustment at all to the analysis in this respect. Exclusion of those assets reduces Liberty's proposed $66.7 million capital deferral reduction in rate base to $34.6 million. In addition, Liberty's quantification of that proposal did not take into account that about $47 million of the distribution capital additions it seeks to remove from ComEd's rate base are not included in the rate base to start with. While Liberty contends that there may be offsetting adjustments at the beginning of the analysis, removal of those assets from Liberty's calculation reduces Liberty's proposed disallowance to $22.9 million. These facts, in addition to the other findings included here, provide multiple bases for rejecting Liberty's $66.7 million capital smoothing rate base reduction.

In addition, the remaining $42.6 million portion of Liberty's approximately $109 million of net plant capital disallowance recommendation is also unsupported by the evidence in the record. Contrary to Liberty's contentions, actual cost data and quantitative analysis demonstrate that the costs of ComEd's major substation construction projects in 1999-2001 were reasonable, and the Commission concludes that Liberty's proposed $109 million net plant disallowance should be rejected.

Specifically, ComEd presented evidence showing that the contractor overhead and profit costs paid by ComEd for construction of the substation projects were reasonable. In addition, ComEd showed that the total project costs were reasonable based upon comparison of the projects' cost per unit of electrical output with the cost per unit of output of other projects constructed by ComEd in recent years. Finally, ComEd presented evidence demonstrating that analysis of the actual data by professional estimators demonstrates that the total cost of the projects paid by ComEd is within about 1% of the cost if the same facilities were to be constructed today. We are cognizant that Liberty's Report presented detailed discussion of many aspects of a large number of capital projects, but ComEd has shown that in light of the evidence in the record as a whole ComEd's rate base should not be reduced by Liberty's proposed adjustments.

The majority of Liberty's proposed $42.6 million disallowance is based on percentage limits that Liberty contends based on its experience should be applied when determining permissible amounts of overtime for ComEd employees and contractors working on the projects. The Commission agrees with the conclusion of Dr. Daniel Halpin, who testified that these are not recognized limitations in the industry, and that Liberty's flat percentage overtime caps are inconsistent with project scheduling requirements and normal construction practices. Moreover, the Commission notes that the Phase II direct testimony of Jerome Hill identifies certain errors in Liberty's quantification of its employee overtime adjustment. ComEd Exhibit 112.2, Schedule 12.

Finally, even if Liberty were correct that $42.6 million of "excess" costs were incurred on ComEd's 1999-2001 construction projects, it does not support a capital disallowance on the basis of an alleged increase in the utility's rate base. The time value of money analysis prepared by ComEd witness Morris Jacobs demonstrates that, even if such "excess" costs were incurred, the cash flows from ComEd's actual construction schedule are significantly more economical than the cash flows from Liberty's alternative hypothetical 1993-1998 construction program. Again, we disagree with Liberty regarding the applicability of Mr. Jacobs' analysis to the particular facts presented in this case.

Notwithstanding the foregoing, in order to narrow the issues in this proceeding, the testimony of ComEd witness Jerome Hill supports, and the Movants, including ComEd, do not oppose the inclusion of the following rate base adjustments proposed by Liberty: a $1,890,000 pro forma to actual "true up" adjustment as of June 30, 2001 (reducing the Interim Order's $11,038,000 adjustment by $1,890,000 to $9,148,000), a $2,418,000 Northwest Project adjustment, a $917,500 adjustment to Emergency Work Order projects, a $128,371,000 unrecorded retirements adjustment and a $123,821,000 new depreciation method adjustment. Each of these adjustments and the effects thereof (including accumulated depreciation adjustments of $254,358,000, as well as an accumulated deferred income tax adjustment of $1,156,000) are reflected in Appendix A to this order and the Commission approves each of these adjustments.

8. Other Rate Base Issues

GCI proposed that operating reserves be functionalized using a labor allocator. This approach is consistent with witness Effron's use of a labor allocator for administrative and general expense. GCI claims that by applying a labor allocator to ComEd's operating reserves results in a reduction of the operating reserve proposed by ComEd by $101,585,000.

The Company asserts GCI's functionalization of operating reserves using a labor allocator is fundamentally flawed.

Commission Analysis and Conclusion

Consistent with our conclusion in Section II.C.2 of this Order, we reject GCI's use of a general labor allocator to functionalize the Company's operating reserves.

D. Operating Revenues and Expenses

ComEd's initial proposed jurisdictional operating expenses were $1,267,842,000, plus income taxes. Given the downward adjustments that ComEd made or agreed to in its rebuttal and surrebuttal testimony, its revised proposed jurisdictional operating expenses at the time ComEd's initial brief was filed were $1,240,297,000, plus taxes. Staff proposed a downward adjustment of $60,002,000 based on its proposal to use what ComEd labels a crude, less accurate general labor allocator to apportion A&G expense. ComEd indicates that, setting aside that proposed adjustment, ComEd's revised proposal is only 4.82% higher than Staff's Phase I revised proposed jurisdictional operating expenses of $1,183,234,000, plus taxes. The Movants now support or do not oppose approval of jurisdictional operating expenses of

$1,123,379,000, plus taxes, based on the evidence in the record. For the reasons described in this Order, the Commission finds that this $1,123,379,000, plus taxes, operating expense level is reasonable, is supported by the evidence in the record and should be approved.

1. Recommended Operating Income Statement

ComEd emphasizes that it presented compelling and, in many instances, uncontradicted evidence in support of its proposed operating income statement. Through the testimony of Jerome Hill, ComEd explained how it arrived at its initially jurisdictional operating expenses of $1,267,842,000, plus income taxes attributable to the jurisdictional delivery services business. ComEd's revised proposed jurisdictional operating expenses at the time ComEd's initial brief was filed, reflecting the adjustments made or agreed to by the Company in its rebuttal and surrebuttal testimony, were $1,240,297,000, plus taxes. Various witnesses testified on behalf of ComEd that such operating expenses were prudent, just and reasonable and must be included in its jurisdictional delivery services rates. The considerably lower jurisdictional operating expenses of $1,123,379,000, plus taxes, that the Movants now propose (and that ComEd is willing to accept in order to narrow the issues in and resolve this proceeding) are amply supported by the evidence in the record. The adjustments that result in this operating expense level based on the record are described in this order and summarized in Appendix A.

2. Operating Revenues

ComEd avers that in its direct case it presented an appropriate and accurate calculation of its jurisdictional miscellaneous revenues: $54,799,000. The Company made no adjustment in determining that figure, and has not revised it. It submits that no party has challenged that figure.

3. Operating Expenses

ComEd initially proposed jurisdictional operating expenses of $1,267,842,000, plus taxes, and based on the adjustments that it proposed or agreed to in its rebuttal and surrebuttal testimony, has proposed revised jurisdictional operating expenses of $1,240,297,000, plus taxes. It states that its revised jurisdictional operating expenses have been correctly functionalized, were incurred in order to provide jurisdictional delivery services to retail customers, are prudent, and are just and reasonable. The jurisdictional operating expenses of $1,123,379,000, plus taxes, now supported or not opposed by the Movants, as described in this order, have been correctly functionalized, were incurred in order to provide jurisdictional delivery services to retail customers, are prudent, and are just and reasonable

a) Functionalization of Generation, Transmission, and Distribution Expenses

ComEd's Position

ComEd asserts that it correctly functionalized its jurisdictional operating expenses, *i.e.*, its jurisdictional distribution, customer, A&G, and system black start expenses, as well as the associated depreciation and amortization expenses and taxes other than income taxes. It argues that the testimonies of its witnesses Hill, Voltz, Heintz, Sterling, Born, and DeCampli overwhelmingly support its position. ComEd notes that any challenge to its functionalization of certain jurisdictional operating expenses, most prominently, including its A&G expenses are without merit.

GCI's Position

GCI states that the entire record -- in particular, testimony developed through cross-examination of the Company's witnesses -- permits a closer examination of Edison's functionalization of expenses. It also leads to conclusions different from Edison's conclusions and opens questions surrounding the use of its unexamined functionalization tool which create such uncertainty that Edison cannot be deemed to have met its burden of proving that the amounts proposed for inclusion in its revenue requirement are just and reasonable.

GCI avers that Edison's blind reliance on an untested, never-before-used accounting system is unjustified.

The ARES Coalition's Position

The ARES Coalition initially raised questions about ComEd's functionalization of expenses, but has withdrawn all testimony and arguments expressing such concerns.

ComEd's Response

ComEd explains that GCI's arguments are without merit for several reasons. First, the evidence shows the costs at issue are jurisdictional distribution costs that are correctly functionalized. ComEd notes that GCI's unsupported and false comments about its CBMS system, which simply is ComEd's electronic general ledger, which ComEd has used for over four years, which has been audited in three annual audits by ComEd's independent auditors, and which Staff had every opportunity to employ, were addressed in Section II.C.2, above. ComEd submitted further evidence supporting use of CBMS in Phase II.

Second, ComEd indicates that none of the costs at issue was recorded as a supply cost. In Docket 99-0117 and through 1999, the incentive compensation expenses corresponding to the $39.5 million were recorded in FERC Accounts 920-921, which are A&G accounts, not supply accounts. The challenged $27 million in O&M expenses were refunctionalized to distribution from FERC transmission accounts, not supply accounts.

Third, ComEd contends in Docket 99-0117, the Commission allocated all A&G costs among the supply, transmission, and distribution functions using a general labor allocator. It did not hold that all A&G costs in general, or incentive compensation costs in particular, were supply costs. *In re Commonwealth Edison Co.*, Docket 99-0117 (August 26, 1999), at 27. The Company contends that the Commission made no ruling even remotely implying that refunctionalized transmission O&M costs were supply costs. Finally, ComEd indicates that only $41 million of the challenged $66.5 million is included in its revised proposed revenue requirement.

Commission Analysis and Conclusion

Based on our review of the evidence of record, we conclude that ComEd has demonstrated that it properly functionalized its jurisdictional operating expenses. We note that GCI has challenged the functionalization of certain jurisdictional operating expenses, including, most predominately, ComEd's Administrative and General (A&G) expenses, which we address more fully in the next section of this Order. Nevertheless, upon consideration of those arguments the Commission concludes that those positions are rejected.

We conclude that the Company has provided detailed records supporting its proposed functionalization. The Commission is required to make a decision on the evidence present in the record. ComEd's evidence regarding its functionalization is persuasive and causes us to approve its functionalization.

The Commission also notes that the Movants support or do not oppose approval of a $1,517,000,000 revenue requirement (exclusive of Miscellaneous Revenues), further indicating the sufficiency of the evidence favoring the Company's functionalization of its jurisdictional operating expenses.

b) A&G Expenses – Direct Assignment and Allocation

ComEd's Position

ComEd asserts that it has submitted overwhelming, and for all practical purposes uncontradicted, evidence that it has correctly functionalized its A&G expenses, using direct assignment only where that could be done accurately and where the requisite data were available. The Company notes that those A&G costs that could not be directly assigned were allocated using over 30 appropriate allocators tailored to assign reasonably the particular remaining expenses to functions that caused the costs to be incurred. ComEd witnesses Hill and Heintz testified in detail concerning ComEd's functionalization of these expenses.

ComEd indicates that it submitted a substantial functionalization analysis concerning these costs which included a ten-page appendix to Mr. Hill's direct testimony supported by 82 pages of detailed work papers, including a 55-page study. (ComEd produced the 27 pages of allocator information in Phase I and placed it in the record in Phase II.) This and other evidence supporting ComEd's functionalization of A&G expenses in this proceeding significantly exceed that available in Docket 99-0117. ComEd argues that the Commission should not reject its functionalization of A&G in favor of a general labor allocator as it did in Docket 99-0117. ComEd notes that no party has shown that any of the costs directly assigned by ComEd is not amenable to direct assignment. Further, ComEd explains that the Commission on rehearing in Docket 99-0117 and in Docket 99-0013 made clear that direct assignment, where feasible, is preferable because it is more accurate.

Staff's Position

Staff contends that the Company's proposed functionalization of A&G expenses is inconsistent on many levels. It points out that, despite Mr. Hill's claims, ComEd's proposed functionalization of A&G expenses is inconsistent with its earlier proposal in Docket 99-0117 as well as the Commission's Order in that case. The differences from the Company proposal in Docket 99-0117 are demonstrated by a Staff analysis which compares the functionalization of A&G expenses to distribution in the two proceedings. This analysis demonstrates that ComEd's proposed functionalization also conflicts with its proposed approach in that docket.

As with General Plant accounts, Staff presented an analysis quantifying the inconsistencies between ComEd's A&G allocations in this case and Docket 99-0117. For example, ComEd's proposed allocation of Account 920, A&G Salaries, has increased by 35% from $43,781,651 to $59,195,368. The allocation of Account 921, Office Supplies and Expenses, has risen 32% from $40,476,161 to $53,303,145. The allocation of Account 925, Injuries and Damages, has climbed 248% from $3,464,745 to $12,067,800. For Account 935, Maintenance of General Plant, the allocation has risen by 137% from $3,337,390 to $7,912,424.

Furthermore, for Accounts 920-923, Mr. Hill acknowledged under cross-examination that the Company took divergent approaches in the two proceedings, using a number-of-employees allocator in this case but not in Docket 99-0117 (Tr. 3222-3223 and 3428). This acknowledgement underscores the differences between the two studies.

Staff avers that the most important consistency issue for A&G expenses concerns the inconsistency of the Company's proposal with the Commission Order in Docket 99-0117. It argues that this is a key issue because the Commission, not the Company, determines the appropriate allocation of these accounts. In its Order, the Commission concluded as follows with respect to A&G accounts:

> While direct assignment may be a better method in some cases, the Commission does not believe costs, which include CEO and executive salaries, are amenable to direct assignment. Were such costs amenable to direct assignment, Edison would have assigned these costs directly to the distribution function in prior cases. Edison did not. For the same reasons that we disagreed with Edison's direct assignment of General Plant costs, we also disagree with Edison's direct assignment of A&G expenses. We, therefore, adopt IIEC's proposal for allocation. Order, at 27.

Staff contends that this decision is striking because of the breadth of the Commission's conclusion on these issues. It observes that the Commission objected, not just to ComEd's specific proposal in the case, but to the general concept of functionalizing these accounts on the basis of direct assignment.

Nevertheless, Staff points out that, as with General and Intangible Plant, ComEd has failed to heed the Commission on this issue. The Company proposes to use the same direct assignment approach in this case that the Commission rejected in no uncertain terms in Docket 99-0117. Despite that unambiguous conclusion, ComEd proposes in this proceeding to assign directly a total of $187 million of the $254 million in these accounts. That represents 74% of the costs in these accounts, a significant increase from the 40% ComEd had proposed in Docket 99-0117. Staff submits that ComEd's efforts to justify this divergence from Commission precedent lack foundation.

As with General and Intangible Plant, Staff contends that Mr. Hill's argument is unpersuasive for A&G accounts. The decision to restructure provides no justification to abandon the Commission's decision on this matter. Staff asserts that Mr. Hill's restructuring argument does not address the Commission's general concern about the use of direct assignment for these accounts. The Commission did not suggest that it opposes direct assignment only for a utility structured along vertical lines. Therefore, ComEd's restructuring has no bearing on the Commission's conclusion for these accounts. Staff posits that the Company used reorganization as a tool to shift costs from generation to distribution and thereby penalize delivery services ratepayers in the process. It points out that ComEd certainly may realign its business structure for its own purposes but this should not be done at ratepayers' expense.

Furthermore, Staff asserts that Mr. Hill's argument concerning ComEd's restructuring is flawed because the Company did not even begin to restructure until January 2001, after the test year ended, as Staff explained with respect to General and Intangible Plant. This discrepancy undermines the foundation for ComEd's proposed functionalization in this case. Staff asserts that other Illinois utilities such as AmerenUE and AmerenCIPS have adhered to the Commission-approved labor allocator for functionalizing A&G expenses in this round of delivery services cases. If the Commission were to accept ComEd's proposal in this case, Staff argues that it would be applying a double standard in favor of those utilities that disregard Commission opinions over utilities that adhere to those opinions. Staff cautions that this would be a dangerous precedent indeed.

Staff's submits that its proposed labor allocator differs from the proposal made by IIEC because it includes the labor associated with the fossil plants that ComEd divested before the test year. Staff's rationale for using this fossil labor, as explained with respect to General and Intangible Plant, stems from the Commission Order in Docket 99-0117 that adopted a labor allocator which included labor from ComEd's fossil plants. Staff maintains, however, that ComEd failed to adjust A&G expenses downward properly when it sold those plants to Mission Energy in November 1999, thereby laying the groundwork for higher delivery services rates.

This increase is particularly inappropriate considering that the decision to sell those plants was the Company's alone and the $4.813 billion received from that sale went to the Company, not ratepayers. Staff contends that, given ComEd's tangible benefits from the sale, ratepayers should not be penalized by a reallocation of A&G account balances to delivery services.

The Company's failure to allocate A&G expenses appropriately also conflicts with its assurances that the sale of fossil plants would benefit customers and other parties with an interest in a more competitive generation market. ComEd Notice of Property Sale, May 12, 1999 at 6. The higher delivery services rates that result would make delivery services a less attractive alternative to bundled rates and hinder, rather than advance, competition. Staff contends that its specific adjustment for A&G expenses is reasonable and should be adopted. This proposed adjustment reflects the difference in he revenue requirement that results from using a labor allocator to functionalize General and Intangible Plant and A&G expenses in the Company's cost of service study.

Staff's proposed labor allocator, which has been previously described with respect to General and Intangible Plant, begins with the labor allocator contained in the Company's current cost of service study and substitutes the production labor figure from the Company's 1999 FERC Form 1 (p. 354, line 18) for the production labor amount in the Company's current cost of service study. This increases the production component of the allocator from $448,246,408 to $538,203,725 and decreases the distribution share of labor from 36.94% to 33.06%. Staff's proposed net adjustment is $60,002,000. Staff states that the 1999 figure was used because it represents the most recent year that ComEd included labor costs from the fossil plants. It avers that this is the most reasonable figure to use to reflect the proper role of the fossil plants in the labor allocator.

GCI's Position

GCI contends that the Commission should employ a labor allocator for functionalization of A&G expenses and that ComEd's direct assignment of A&G expenses was contrary to the Commission's approach in Docket 99-0117. It also argues that ComEd did not provide sufficient justification for modifying the

Commission's decision in Docket 99-0117 to adopt a labor allocator. Use of Mr. Effron's labor allocator reduces ComEd's A&G expenses by $55,924,000 (before allocation to wholesale customers).

IIEC's Position

IIEC also suggests that the Commission use a labor allocator for the assignment of A&G costs to various functions, as recommended by Staff. IIEC supports the recommendations of Staff Witness Lazare and GCI Witness Effron who supported the use of a labor allocator to allocate distribution functions. IIEC argues that the Commission should reject ComEd's allocation of A&G expenses because; the subject cost and expenses do not lend themselves to direct assignments; ComEd's method for allocating these costs and expenses was rejected in Docket 99-0117; the Company's methods for allocating these costs and expenses differ from methods used for prior bundled rate cases; and ComEd's methods for allocating these costs and expenses are inconsistent with the manner in which FERC sets transmission rates.

The ARES Coalition's Position

The ARES Coalition initially contended that the Commission should employ a labor allocator for functionalization of A&G expenses, but it has now withdrawn its testimony and arguments advocating that position.

ComEd's Response

ComEd, in refuting the arguments of Staff, GCI and IIEC relating to the functionalization of General and Intangible Plant addressed in Section II.C.2 of this Order, similarly identifies numerous points to refute the similar arguments relating to the functionalization of A&G expenses. It contends that Staff says nothing relevant here that has not been disproved. ComEd explains that Staff's claims are tantamount to asking the Commission illegally to turn a blind eye to the evidence and use a labor allocator even though it is clear that for many costs either direct assignment or a direct allocator is more accurate and bears a closer relationship to cost causation.

ComEd indicates that it submitted overwhelming and, for all practical purposes, uncontradicted evidence in support of its functionalization of A&G expenses and that the opposing arguments and proposals of Staff are erroneous.

Staff relies on the Commission's ruling in Docket 99-0117. ComEd indicates that in its arguments relating to Section II.C.2, it has shown that this reliance is unfounded, that the conclusion reached in that docket simply does not justify Staff's position here, and that the Commission's reasoning in that Order, on rehearing, and in its Order in Docket 99-0013 all support the Company because they all support using the most accurate functionalization that is feasible.

In response to Staff's assertions of inconsistencies in its methodology and testimony, the Company contends, as it demonstrated in relation to Section II.C.2, that no such inconsistencies exist, unless applying the same overall methodologies to the current facts and employing more refined allocators where direct assignment is not feasible are "inconsistencies". ComEd indicates that Staff's argument that some FERC A&G Accounts have been allocated more to jurisdictional delivery services than was proposed in relation to the 1997 test year figures in Docket 99-0117, does not even remotely show any "inconsistency" on ComEd's part, much less any error. According to ComEd, it actually used the same labor allocator that is urged by IIEC for the approximately 25% of A&G expenses that are not amenable to direct assignment and for which that particular allocator bears an appropriate relationship to cost causation. That ComEd did not use the same labor allocator for certain of these expenses in Docket 99-0117 does not show any "inconsistency" or, at most, simply confirms the "inconsistency" that, where direct assignment was not feasible ComEd used refined allocators. The Company contends that its ability to do a better job of functionalization, because of better data or more refined allocators, is not a rational excuse to reject ComEd's functionalization.

ComEd contends that Staff errs in assuming that it used direct assignment for all of the costs that it functionalized to jurisdictional delivery services. That simply is not true. Again, ComEd noted that it used over 30 appropriate allocators based on cost causation for various A&G expenses that were not amenable to direct assignment and approximately 25% of all A&G costs used a labor allocator.

ComEd indicates that Staff's remaining arguments, including its arguments for its inflation of the labor allocator by incorporation of the labor for ComEd fossil units sold in 1999, are all reiterations of arguments that Staff made in relation to General and Intangible Plant, each of which was shown to be without any merit and/or relevance in Section II.C.2.

In addition to the foregoing evidence presented in Phase I, significant additional evidence supporting ComEd's position was presented in Phase II. In Phase I, Jerome Hill explained that ComEd as the restructured energy delivery function has its own financial statements that are audited by the independent accountants, including the balance sheets where the General and Intangible Plant assets reside. That is true as well of the income statements where the A&G costs are contained. Mr. Hill noted that the restructured balance sheets had been reviewed by the independent auditors as part of their first quarter 2001 interim audit procedures. ComEd's Vice President, Finance, Kathryn Houtsma, CPA, in her Phase II direct testimony, discusses additional evidence now known that supports the cost data of ComEd as an energy delivery company. She points out that ComEd's independent auditors now have reviewed for purposes of the 2001 annual audit the financial statements of ComEd. The independent auditors gave ComEd an unqualified opinion. A review of these audited financial statements and the FERC account and other data that serve as the basis for these financial statements clearly show that there are no production plant assets of any kind (nuclear or fossil) and no production operation expenses of any kind (except for purchased power costs) that

ComEd's General and Intangible Plant and ComEd's A&G expenses support. A comparison of the 2000 test year jurisdictional General and Intangible Plant and A&G costs from ComEd's Initial Filing (that utilized the restructured balance sheets and the direct assignment approach where feasible and otherwise used allocators based on cost-causation) to the 2001 and 2002 ComEd energy delivery company are included in the record as ComEd Exhibit 112.2, Schedules 30 and 31. Because ComEd's 2000 test year amounts are jurisdictional, for 2001 Mr. Hill used the jurisdictional amounts included in the 2001 jurisdictional revenue requirement (that is, he removed the General and Intangible Plant that supports the transmission function). For 2002, Mr. Hill estimated the jurisdictional amounts utilizing the functional relationships from the 2001 revenue requirement analysis. This comparison clearly shows that ComEd's jurisdictional portions of General and Intangible Plant and A&G costs contained in its Initial Filing are reasonable and, in fact, understate the costs if one looks forward to 2001 and 2002 data, on which Liberty relies for many of its adjustments. Consistent with these facts and conclusions, as well as the wealth of uncontradicted evidence supplied by ComEd on this subject in Phase I, Mr. Hill explains that the jurisdictional amounts derived from the "across the board" modified general labor allocator contained in the Interim Order must be rejected.

ComEd explains that the Intervenor arguments also lack merit. It asserts that the IIEC did not even review all of its analysis and workpapers much less identify any flaw in its A&G study. The Company contends that GCI also simply reiterated the points it had made in relation to General and Intangible Plant.

ComEd submitted the Phase II reply testimony of Mr. Hill (ComEd Ex. 126.0) on certain of the foregoing topics.

Commission Analysis and Conclusion

In the Interim Order entered on April 1, 2002, the Commission approved the use of Staff's general labor allocator to allocate administrative and general expenses. The Commission made clear that it was not finally resolving the issue and that the Interim Order's determination was without prejudice to further proceedings in this Docket.

The Commission now concludes that, for purposes of this Order and without prejudging any issues that may arise in future cases on this subject, the general labor allocator initially proposed by Staff for administrative and general expenses should not be approved. The Commission believes that ComEd's detailed evidence in support of its assignments and allocations of administrative and general expenses provides a strong basis for this conclusion. The Commission's decision to apply Staff's labor allocator for purposes of allocating general and intangible plant, discussed earlier in this order, addressed a different issue and different facts, which the Commission concludes warranted adoption of the labor allocator there, but not here with respect to allocation of administrative and general expenses.

In addition to the detailed arguments raised by ComEd, we note as an initial matter that the Commission may consider each proceeding before it freely, even if it involves issues identical to those in a previous case. *Lakehead Pipeline co. v. Illinois Commerce Comm'n.*, App. 1st Dist 1997, 224 Ill. Dec. 779, 289 Ill. App. 705, 682 N.E.2d 340. Thus, while the Commission may take into account determinations in prior proceedings, it is bound by law to base its decisions on the record evidence particular to each proceeding. On this basis, the Commission is mindful of its determination in Docket 99-0117 relative to the rejection of ComEd's functionalization of General Plant and A&G in favor of a general labor allocator. We, however, will look at the evidence presented in this record and make our determination on that basis. Accordingly, we reject the arguments of parties who suggest our determination must be solely guided by the precedent of our Order in 99-0117.

Upon consideration of the evidence in this record we conclude that ComEd's functionalization of A&G is reasonable. As we stated in our order in Docket 99-0013 (Order entered October 4, 2000):

> "As a general proposition, the Commission believes that direct assignment of costs is superior to the application of general allocators if the costs are suited to direct assignment and sufficient cost data is available to make direct assignments...." (Order at 44)

The Commission finds that ComEd's varied approach to the functionalization of expenses, which includes the use of direct assignment and labor allocators, where appropriate, is reasonable and comports with our determination in Docket 99-0013. We believe that the Company's proposed "hybrid" approach satisfies that objective. We, therefore, approve ComEd's functionalization of its A&G expenses.

Adjustments to ComEd's Direct Assignments and Allocations of Administrative & General Expenses

The Liberty Audit

The Liberty audit recommends the following reductions in the administrative and general expenses assigned and allocated to ComEd's delivery services function:

Summary of A&G Adjustments ($000)

Adjustment	Interim Order	Liberty	Net	Report Ref.
Legal and Outage Related Costs	-	$236	$236	V-6
Outage-related Payouts and Settlements	-	9	9	V-7
Wrigleyville Settlement	-	623	623	V-8
Chicago Settlement Costs	-	1,338	1,338	V-9
Special Studies	-	1,517	1,517	V-10
Customer Service and Outage Communications	-	748	748	V-11
Incentive Compensation	-	1,401	1,401	V-11
Net A&G Downward Adjustment	-	**$5,872**	**$5,872**	

In arriving at these recommendations, Liberty states that it placed particular emphasis on A&G cost areas that appeared to have a significant potential for being affected by responses to ComEd's reliability and outage problems. Particular areas of interest included in-house and outside legal expenses, payments for outage claims or related settlements, and special studies or consulting fees associated with issues that could logically be connected with the various reports that help to define audit scope. Liberty also indicates that it investigated selected costs associated with reorganization of the distribution function after the outages, severance costs, relocation costs, signing bonuses, and search firm fees.

The Movants support or do not oppose the inclusion of these reductions in administrative and general expenses in this order, with one modification. That modification is in the amount of $748,000 for customer service and outage communications. In section II.D.3(d)(xvi) of this order, the Commission adopts $2,954,000 of customer service expense disallowances proposed by Liberty. In light of those reductions, ComEd and the Movants oppose a further reduction of $748,000 as excessive and unnecessary.

Based on the evidence in the record, the Commission finds that, as modified above, the downward adjustment to administrative and general expenses recommended by Liberty, is reasonable and is supported by the evidence. The Commission therefore approves a downward adjustment in the modified total amount of $5,124,000.

c) Proposed Known and Measurable Changes to Test Year Expenses

(i) Expense Adjustments Related To Rate Base Adjustments

ComEd made five adjustments to its proposed jurisdictional net rate base, and also made corresponding changes to its test year expenses in order to arrive at a calculation of the proposed jurisdictional revenue requirement. It accepts Staff Witness Gorniak's proposed adjustments to rate base relating to retired and replacement plant. The Company also agrees with Staff's corresponding depreciation expense adjustments. It accepts five ADIT adjustments to jurisdictional rate base proposed by GCI witness Effron, but these adjustments do not have an impact on jurisdictional operating expenses. And, finally, ComEd made a voluntary downward adjustment to distribution plant in rate base, which must also reflect the related jurisdictional depreciation expense adjustment in order to derive the correct jurisdictional revenue requirement.

The Commission finds that Mr. Gorniak's proposed adjustments to rate base relating to retired and replacement plant are appropriate, just and reasonable, and should be accepted. We also find that ComEd's voluntary downward adjustment to distribution plant in rate base proposed by Company Witness Voltz in his surrebuttal testimony is just and reasonable and should be accepted conditional upon this adjustment reflecting the related jurisdictional depreciation expense adjustment in order to derive the correct jurisdictional revenue requirement.

(ii) "Levelization" Adjustments

ComEd's Position

ComEd employed levelizing methodologies in three adjustments. In each instance, ComEd states that it voluntarily proposes an adjustment or calculation that reduces its proposed jurisdictional revenue requirement in comparison to what the requirement would have been if it had used unadjusted test year data. In each of these adjustments, ComEd proposed the adjustment after analyzing the various events and making a determination that the test year events and costs warranted levelization in order to reflect more accurately the true test year delivery service costs. Two of the three adjustments are addressed below. The third adjustment used a reduced uncollectibles figure in the Gross Revenue Conversion Factor (done by removing a particular non-recurring cost, not by levelizing over different years).

(a) Tree Management Expense

ComEd's Position

ComEd proposed a $513,000 downward adjustment to its year 2000 $46,871,000 in operating expenses for tree management using a three-year levelization methodology because of changes in its approach and practices relating to tree removal and trimming made during the 1998-2000 period. It contends that a three-year levelization methodology is appropriate for this proceeding whereas the longer levelization periods advocated by Staff and the GCI would be inappropriate. Thus, ComEd's proposed downward adjustment should be approved.

Staff's Position

Staff witness Jones proposed an adjustment to reduce test-year tree management operating expense by $7,028,000 based on an eight-year average of historical expense (indexed for inflation) for the years 1993 through 2000. (Staff Exhibit 2.0 at 9 and Schedule 2.6) Staff states that, theoretically, the rates set in this case are set in perpetuity and should reflect normal operating conditions; i.e., a normal, recurring level of expense to maintain the four-year tree trimming cycle to which the Company says it is now committed. According to Ms. Jones, the three-year average calculated by the Company in an attempt to normalize tree management expense in the test year is not based on years with normal levels of tree management activity. The Company's average is based on years in which an accelerated tree trimming program to catch up to a four-year tree trimming cycle was in effect.

According to Company witness Voltz, from October 1998 to May 2000 ComEd Company was engaged in an aggressive program to establish and maintain a four-year tree trimming cycle. However, the Company could not identify that portion of the actual expenses incurred in 1999 and 2000 to catch up to a four-year cycle as opposed to that portion of the expenses needed to maintain a four-year cycle as a normal level of tree trimming activity.

Staff submits that the normal level of expense to maintain a four-year tree trimming cycle is simply unknown. Presumably, the volume of tree trimming activity and associated expense would decline once the four-year cycle was achieved. Staff contends that, in fact, this is what the Company expected to happen. In Docket 99-0117, ComEd witness Kathryn M. Houtsma testified that tree trimming expense was projected to decrease in year 2001 from year 2000 levels.

Further, Staff maintains that Ms. Jones' adjustment is based upon the fact that the Company could not provide any information to indicate what it believes to be the cost of a normal, recurring level of tree-trimming activity to maintain a four-year cycle. In light of this, Ms. Jones independently developed a suspense level that Staff asserts is more representative of a normal level of tree trimming activity than what the Company developed. Staff asks how can it be expected to determine independently whether there was an incremental increase in tree management expense as a result of the switch to the four-year cycle when even the Company admits that it cannot make that determination? Thus, given the fact, as Staff asserts, that there is no evidence in the record to support how much it will cost to maintain a four-year tree trimming cycle, its adjustment is simply one method for smoothing the high levels of tree trimming expense experienced by the Company in 1999 and 2000 in order to reflect a more normal level. Staff contends that it provides a more realistic level of normal tree trimming expense than does the Company's average for the years 1998, 1999, and 2000, yet allows ComEd to recover considerably more than the $35,380,000 tree-trimming expense projected for 2001 in Docket 99-0117. Consequently, Staff submits that Ms. Jones' adjustment is just and reasonable and should be accepted.

GCI's Position

GCI witness Effron testified that ComEd's three-year average is not appropriate because an accelerated tree trimming program was in place in two of those three years. GCI notes that Staff agrees with this contention. Mr. Effron recommended a six-year period be used to calculate tree trimming expense, which includes two years of above-normal expenditures – 1999 and 2000, two years of below-normal expenditures – 1995 and 1996, and two years when expenses were in the middle – 1997 and 1998. The average tree trimming expense for those six years was $41,655,000 and results in a reduction of $4,703,000 to ComEd's proposed tree trimming expense.

The ARES Position

While Edison proposes to utilize a three-year average for tree management expenses for the years 1998-2000, the ARES maintain that the Company admitted that it embarked on an accelerated program during that period. Accordingly, the Coalition asserts that adoption of Mr. Effron's six-year average will levelize properly the Company's tree management expense and should be adopted.

ComEd's Response

In reply, ComEd states that the Staff and GCI alternatives are erroneous, for several reasons. First, it argues that its proposed three-year period is appropriate given the specific activity and funding levels in those three years and going forward. Second, its pre-1988 tree management activities and funding levels were insufficient for the four-year cycle and resulting higher level of reliability that it now is achieving, so any levelization using pre-1998 data is erroneous and, moreover, Staff and GCI have chosen periods that plainly are biased to produce too low a result. Third, the evidence does not support the assumption that the accelerated tree trimming actually increased costs. Accelerated tree trimming may decrease, not increase costs; Staff's witness made no independent determination that any such increase in fact occurred; and GCI's witnesses also presented no such analysis. Cross-examination of Staff and GCI witnesses confirmed the invalidity and mathematical bias of their proposals. Fourth, the estimates made in 1999 regarding ComEd's tree management expenses are outdated, and ComEd's tree management budget for 2001, in which no accelerated tree trimming occurred, in fact was approximately $42,950,000, materially higher than what GCI's and Staff's adjustments would allow. Finally, ComEd's accelerating tree trimming for 20 months, only five of which were in the test year, does not justify 72 or 96 month levelization periods, especially given the above facts regarding the pre-1998 activities and funding levels. ComEd also submitted additional evidence on these subject in Phase II. For these reasons, ComEd concludes that these proposals are unsupported, arbitrary, biased, results-driven and should be rejected by the Commission.

Commission Analysis and Conclusion

The record indicates that Edison's proposed three-year average for tree management expenses for the years 1998-2000 is abnormally high. Further, we are mindful of ComEd's testimony in Docket 99-0117, in which it concluded that tree trimming expenses would in fact decrease in 2001. Both Staff and GCI's proposals to normalize Edison's proposal are based upon an analysis of expense information over a longer period of time. While both proposals are reasonable adjustments to Edison's proposal, we are of the opinion that GCI's proposal will result in smoothing of the abnormalities not covered by ComEd's proposal. We believe that GCI's proposal of a six-year normalization downward adjustment in the incremental amount of $4,703,000 is reasonable and will accomplish the goal of normalization. For these reasons, the Commission adopts GCI's proposed adjustment.

(b) Storm Restoration Costs

ComEd's Position

ComEd proposes normalizing its actual 2000 test year storm damage expense to reflect an historical three-year average consisting of 1998, 1999, and 2000 expenses. Its normalization calculations result in a downward adjustment of $2,950,000 to its jurisdictional test-year variable storm damage restoration expenses, (which were $18,668,000), utilizing a three-year levelization methodology because of changes in its approach and practices relating to emergency storm restoration over the 1998-2000 period. ComEd indicates that the use of its three-year levelization methodology is appropriate for this proceeding and that the longer levelization periods advocated by Staff and GCI would be inappropriate for a variety of reasons.

Staff's Position

Staff Witness Sant proposed an adjustment further to reduce the Company's storm restoration expense to reflect a more normal level in the test-year revenue requirement. He suggests that this normalization adjustment is necessary because the Company's proposal is over three times higher than the average for the years 1993 –

1997, which was the period utilized in Docket 99-0117. The Company's proposal in this docket uses an average of the years 1998 – 2000.

ComEd's proposed three-year period is not long enough to derive a test-year storm restoration expense. Storm restoration expense amounts for 1998-2000 show incredible fluctuation. The expense decreases by nearly 55% from 1998 to 1999, and then increases by approximately 81% from 1999 to 2000. In dollar terms, there is a $20 million decrease in 1999 from the 1998 level and then a $13.4 million increase in 2000. With such a short time period reflecting such incredible fluctuation, it is not appropriate to determine any kind of trend.

With regard to the Company's alternate proposal to use the 44-month period of 1998 through the first eight months of 2001, Staff suggests such a proposal merely exacerbates the tremendous fluctuation. There is approximately a 62%, or $18.6 million decrease that occurs from 2000 to an annualized 2001 amount. It is not determinable whether 1998 and 2000 are high outliers or whether 1999 and especially 2001 are low outliers. Given such variation, it is especially important to have a longer time period to determine a more normal recurring amount. Therefore, neither the three-year average of 1998 – 2000 nor the alternate 44-month average reflects an ongoing normal level of expenditures.

Staff contends that the Company is incorrect that 1993 – 1997 data cannot be compared to post-1997 data because of a change in its accounting system or its storm restoration operations. As Mr. Voltz testified at the evidentiary hearing, there is actually a third phenomenon that may play a role in the increase in storm expense, and that is the natural fluctuations of storm intensity and damage. (Tr. 1958 - 1959) Neither a three-year period nor a 44-month period can capture the natural fluctuations in resulting storm restoration expense for the test year.

Staff believes that when normalizing storm restoration expense it is necessary to normalize the total costs, not just the variable costs, as proposed by the Company. What ComEd defines as "fixed" storm costs vary to the same degree as the variable costs and overall storm restoration costs during 1998 – 2000. The amounts of fixed storm expense for 1998-2000, respectively, are $17.5 million, $7.0 million, and $11.2 million. This represents an approximate decrease of 60% in 1999 and then another approximate increase of 60% in 2000. Comparing the three years' fixed costs, they are as erratic as the Company's variable or incremental costs. As the Company repeatedly states, storms are highly variable. Obviously, so are the fixed storm costs. It is not sound reasoning therefore to normalize the incremental costs and not the fixed costs.

Staff finds it incredible that the Company would insist that three years of data are adequate for determining a reasonable level of storm restoration expense when that level is more than triple the normalized level used in the current delivery services tariffs. Unlike ComEd's proposal, Staff's proposal seeks to calculate a reasonable level for storm restoration expense and should be accepted by the Commission.

GCI's Position

Mr. Effron concurs with Staff's assessment and testified that three years are too small a sample to establish an appropriate normalized level of storm damage expense. He observed that ComEd's three-year average includes an admittedly abnormal year – 2000 – and another year, 1998, with a storm damage expense 22% higher than 2000.

To normalize this expense, Mr. Effron proposed using a five-year average as the Commission did in Docket 99-0117. The average for 1996-2001 was $21,184,000. Use of this five-year average reduces ComEd's proposed storm damage expense by $5,771,000.

Additionally, Mr. Effron maintained that if the Commission adopts ComEd's proposal to accrue variable storm damage expense on its books of account and to charge actual variable storm damage costs against the accrued reserve, then the variable storm damage expense must be modified. He calculated that 62.53% of the storm damage expense in 2000 was variable expense. GCI submits that if the Commission adopts ComEd's proposed storm damage expense reserve approaching, then the variable storm damage expense included in the revenue requirement should be 62.53% of the five-year average for storm damage expense, or $13,247,000.

The ARES Position

The record demonstrates that two of the three years ComEd used to calculate a normalized expense are abnormally high. The Coalition posits that the record also demonstrates that Edison used a five-year period to normalize these expenses in its 1999 DST proceeding. Mr. Effron has proposed use of a five-year period to calculate normalized storm damage expense. Alternatively, Mr. Sant has proposed that Edison utilize a nine-year period to normalize the storm restoration cost expense.

The Coalition suggests that, consistent with its Order in the 1999 Edison DST proceeding, the Commission should adopt GCI's proposal to utilize a five-year period to normalize the storm restoration cost expenses.

ComEd's Response

In response, ComEd states that it voluntarily made a downward adjustment of $2,950,000 to its jurisdictional test-year variable storm damage restoration expenses, using a three-year levelization period, and no further downward adjustment or longer levelization period is appropriate. The Company avers that the above-referenced proposals should be rejected. It contends that the evidence shows that in 1998, as Staff itself admits, ComEd significantly changed its handling of storm restoration, including implementing a policy of making temporary and permanent repairs, hugely decreasing storm outage durations; and that in 1998 ComEd also materially changed its storm expense accounting, making pre-1998 data not comparable. Yet Staff is unwilling to recognize the nature and significance of those facts. While Staff concedes that if

ComEd is doing temporary repairs when it previously did not, then it "probably" cannot do that for free, but it refuses to concede that the higher expense levels of 1998-2000 have anything to do with the dramatic changes in ComEd's operations (or the changes in accounting) or that the pre-1998 data are not comparable. Staff insists that ComEd provide numerical quantification of the impact on expenses (other than the fact of the increased expenses themselves), even though the relation of the expenses to the changes is clear and such quantification is not possible.

The Company asserts that GCI's testimony adds nothing, because it is based on the fact that 1998-2000 average expenses were higher and that a five-year average was used in Docket 99-0117. Finally, ComEd posits, even assuming incorrectly, that a longer levelization period would be appropriate, it would be 1998 to August 2001 -- not the periods proposed by Staff and GCI -- resulting in an additional downward adjustment of only $748,000. If that alternative were modified as raised by Staff to levelize both fixed and variable costs, then it would reduce, not increase, ComEd's proposed adjustment by $600,000, but ComEd believes that consistency is better served by its alternative without that modification.

Commission Analysis and Conclusion

Based on our review of the evidence of record, the Commission finds that Edison's proposed three-year average to normalize the storm restoration cost expense is abnormally high. We find unconvincing the Company's assertions that its changed accounting system for storm restoration operations makes a comparison to pre-1998 irrelevant. We believe that the proposed three-year average uses too small a sample to establish a reliable and credible normalization level for storm restoration costs. Clearly, the severe fluctuation in storm restoration costs gives credence to the use of a longer period to calculate a normalized level of costs. Consistent with our determination on this issue in Docket 99-0017, we conclude that a five-year period as proposed by GCI to normalize the storm restoration cost expenses is reasonable and should be adopted.

(c) Reserve for Levelized Variable Storm Damage Expenses

ComEd's Position

ComEd proposes an accounting reserve treatment for its variable storm damage expenses based on a three-year levelization methodology, arguing that it is in all parties' interests. The Company states that the concerns raised by Staff witness Sant, the only witness to present any opposition to the proposal, are unwarranted and are in part based on a misunderstanding of the facts. It explains that the cross-examination of Mr. Sant demonstrated that shareholders and customers alike may benefit from the proposal (although not necessarily in perfectly equal measure) and that no one will be worse off as a result of the proposal. ComEd indicates that, absent unlawfulness (or some other valid and sufficient non-economic objection), a "Pareto optimal" proposal -- one that benefits some or all and harms no one -- should be adopted from the standpoint of economic efficiency.

Staff's Position

Staff opposes the Company's proposed storm reserve and accompanying reconciliation. It contends that the Company's proposal constitutes single-issue ratemaking; violates test year principles; and would constitute retroactive ratemaking when over- or under- recoveries are reflected in future rates. For these reasons, Staff asserts that the Commission should reject the Company's proposal. It contends that the proposal violates the test-year principle because it would take data concerning storm expense from many years through its proposed reconciliation process, and match than with revenue from one year, i.e. the test year. Quite often, data from many years are used to normalize an expense. However, the reconciliation process proposed by the Company would not normalize a test-year expense; rather, it would adjust the normalized expense by the over- or under-recovered amount of the storm reserve. This process easily could facilitate the mismatching of high expense data from one year and low revenue data from another year. *Business & Professional People for the Public Interest v. Illinois Commerce Comm'n,* 146 Ill. 2d 175, 237-238, 585 N.E.2d 1032, 1058 (1991) ("*BPI II*") stated the following with regard to test-year principles:

> As previously stated, a utility's rates are a function of its annual revenues and operating expenses, as well as its rate base. In order to accurately determine the utility's revenue requirement, the Commission established filing requirements under which a utility must present its rate data in accordance with a proposed one-year test year. The purpose of the test-year rule is to prevent a utility from overstating its revenue requirement by mismatching low revenue data from one year with high expense data from a different year. *Business & Professional People I,* 136 Ill. 2d 192 at 219.

ComEd's proposal to reconcile a storm expense reserve is precisely what the previous cases have described as allowing the utility to recoup prior losses, or refund excessive profits. If an under-recovery occurs, then by increasing the normalized test-year storm expense to recover the under-recovered reserve amount, it is clearly a case of allowing the utility to recoup prior losses. Conversely, if the reserve is in a state of over-recovery, the negative adjustment to the normalized test-year storm expense would just as clearly represent the utility refunding excessive profits to the ratepayers.

Staff asserts that the Company acknowledges the retroactive nature of its proposal. The purpose of the storm reserve account would be to provide a means not only to normalize but, even further, to reconcile the levelized retrospective view of expenses incurred during the period between ratemaking proceedings. Staff asserts that, rather than discuss the problems inherent in retroactive ratemaking, ComEd simply chooses to state that the merits of the proposal (in the interest of the Company, ratepayers, and alternative suppliers) make it worthy of acceptance by the Commission. Staff reminds the Commission that the equality of the "merits" among the Company, ratepayers, and alternative suppliers is debatable. For instance, the Company has argued that this proposal would stabilize earnings, and lower the cost of capital, which would benefit the ratepayers as well as the Company. However, that argument does not mention that this proposal also would allow shareholders to recover the storm restoration expense portion of the revenue requirement risk-free. This certainly would be strictly a benefit to the shareholders, not to the ratepayers of the alternative suppliers. However, what is not debatable is that the prohibition against retroactive ratemaking is a fundamental tenet in utility ratemaking.

For all the foregoing reasons, Staff submits that the Commission should reject the Company's proposal.

ComEd's Response

ComEd argues that it showed that its proposed accounting reserve for variable storm expenses is in all parties' interests, that it is opposed only by Staff, and that Staff's objections are erroneous and in part rest on a misunderstanding of the proposal. Staff's assertion that stockholders obtain a unique benefit of recovering certain costs "risk free" overlooks that any benefits to stockholders are part and parcel of a stabilization of earnings that benefits all parties, ignores that under the proposal stockholders must fund the full reserve each year even if actual expenses are less, and, in any event, does not change the fact that, Staff is unable to identify anyone the proposal would harm and that allegedly uneven benefits are not a valid reason for rejecting this Pareto-optimal proposal.

The Company argues that Staff's single-issue ratemaking and test-year arguments do not apply to a reconciliation mechanism such as proposed here. *Citizens Utility Bd. v. Illinois Commerce Comm'n.*, 166 Ill. 2d 111, 137, 651 N.E.2d 1089, 1102 (1995). Staff's retroactive ratemaking argument is a more serious concern, but ComEd respectfully submits that the two cases Staff cites are not directly on point to ComEd's storm reserve proposal, which sets up in advance a form of reconciliation measure for a uniquely variable cost, in which rates are set only prospectively in a ratemaking proceeding, and where Statement of Financial Accounting Standards No. 71 permits such a reserve Commission approval. Thus, unless the Commission believes that the proposal violates the retroactive ratemaking doctrine, it should be approved.

Commission Analysis and Conclusion

Based on our review of the Company's novel storm reserve proposal as well as Staff's arguments we conclude that this proposal is unnecessary and may result in an unreasonable level of reserves coupled with the potential for uneven benefits. We further conclude that this proposal may be on the cusp of being violative of the basic tenets of utility ratemaking. Accordingly, the Commission declines to adopt ComEd's proposal.

(d) Other Issues

(i) Distribution Salaries and Wages

Staff's Position

Staff proposes a normalization adjustment for distribution salaries and wages expense to decrease that expense to a more normal level. It asserts that the test year reflects a significant increase in distribution salaries and wages and the Company chose to indicate that it did not know whether this level of expense will continue.

Staff maintains that unless the extraordinary actions the Company undertook as part of its reliability upgrade program are to continue indefinitely, any effects of the program upon the test-year distribution wages and salaries expense call into question whether that expense reflects a normal, ongoing level. Staff is not aware of any attempt by the Company to remove from its test-year distribution wages and salaries expense any of the effects of this program, nor has the Company attempted to explain the necessity or the recurring nature of the more than $26 million increase in the test year.

Because doubts surrounding the normal level of expense in the test year stem from the maintenance upgrades embarked on by the Company, Staff used 1998 as a base year for calculating the adjustment because it predates the reliability upgrades. Staff's test-year normalized level is calculated by increasing 1998 salaries by a typical amount of wage inflation. This amount is then compared to the test-year level proposed by the Company. The difference, less variances related to refunctionalization of costs and the new recording method for incentive compensation, is the foundation for Staff's adjustment. However, Staff also reduces its proposed adjustment by amounts that may be considered double-counting because of other adjustments proposed by the Company and Staff. Therefore, to close the unexplained gap of $26 million, Staff proposes an adjustment that takes the distribution salaries and wages expense from 1998, which is a year prior to the unprecedented reliability improvement campaign, and increases it by a reasonable amount for wage inflation.

ComEd's Response

ComEd opposes Staff's proposed normalization adjustment for distribution salaries and wages expenses on the grounds, among others, that the test year expense as adjusted is appropriate and that there is no reason to believe that 1998, a year before what the Company labels at its enduring changes, represents a normal year for distribution salaries and wages. When Staff's theory is corrected to recognize "refunctionalization" of transmission costs to the distribution function under the FERC "seven factor" test, the change in the FERC accounts in which incentive compensation are recorded, inflation, and the downward adjustments proposed by the Company itself in its direct testimony (not even counting the further revised Staff downward adjustment to incentive compensation to which ComEd agreed in surrebuttal testimony), ComEd indicates that the nominal increases in distribution salaries and wages from 1998 to 2000 disappear.

Commission Analysis and Conclusion

The Commission appreciates Staff' s concerns regarding a significant increase in distribution salaries and wages in the test year. ComEd' s inability to support its increased distribution salaries and wages and its insufficiency in supporting the continuing nature of such an increase is troublesome to the Commission. Accordingly, in order to levelize a high test year distribution salaries and wages expense amount to a more normal level, we conclude that Staff' s proposal to decrease O&M expense is reasonable and should be adopted.

Although ComEd initially opposed Staff's proposed adjustment, the Movants, including ComEd, now support a downward adjustment in distribution salaries and wages of $9,739,000. The Commission finds that Staff's proposal and the reasons for it are reasonable, that a $9,739,000 reduction in distribution salaries and wages is supported by the evidence in the record and is therefore approved.

(ii) FERC Accounts 580, 590, 592-594 and 903

GCI's Position

In his Phase I testimony, Mr. Effron proposed adjustments to normalize the costs included in FERC Accounts 580 and 590. Account 580 is Distribution Operation Supervision and Engineering expense and Account 590 is Distribution Maintenance Supervision and Engineering expense. ComEd charged $107,296,000 to Account 580 in 2000, an increase of $67,433,000, or 169%, to the expenses charged in 1999. ComEd charged $24,724,000 to Account 590 in 2000, an increase of $15,886,000, or 180%, to the expenses charged in 1999.

GCI asserts that the cost levels in these accounts in the 2000 test year are clearly abnormal. ComEd alleged that the dramatic increases in Accounts 580 and 590 were due primarily to (1) an increase in the Emergency Restoration of Power ("ERP") expense, (2) Jefferson Street Substation project expenses, and (3) implementation of the 2000 Summer Readiness program. Mr. Effron demonstrated that none of these factors could reasonably lead to increases of the magnitude that occurred between 1999 and 2000 for these accounts.

Mr. Effron pointed out that ERP expenses are charged to Account 593 rather than Account 580. Moreover, even if these costs were charged to Account 580, it is hard to believe that ERP costs could cause a significant part of the $67.4 million increase from 1999. As for the Jefferson Street project, Mr. Effron noted that the expense of the project itself was only $3 million. Obviously, any supervision and direction costs associated with the project would not lead to such a dramatic increase in

Account 580. Finally, ComEd was not able to assign a dollar figure to the costs for the implementation of the 2000 Summer Readiness program. Thus, it is impossible for ComEd to claim that this is a legitimate reason for the large increase in Account 580.

GCI surmises that a more likely basis for the increase in Account 580 is the incentive compensation charged to that account in 2000. Mr. Effron testified that the level increased from $3.4 million in 1999 to $42.9 million in 2000, an increase of $39.5 million. Although this accounted for more than half of the increase in Account 580 from 1999 to 2000, ComEd failed to list it as a factor in the increase.

Mr. Effron testified that the expense levels for 1999 in Accounts 580 and 590 were also abnormal. As for Account 580, expenses averaged approximately $10 million for the years 1995-1997. In 1998, the expense almost tripled to $27.9 million. In 1999, it increased by almost 50% from 1998 to $39.9 million. Thus, the expense in 1999 was nearly four times the average expense in the years 1995-1997 and more than 40% greater than the expense in 1998.

Account 590 shows a similar trajectory. For the years 1995-1997, the expenses averaged less than $2 million. In 1998, the expense more than tripled to $7.7 million. It rose again in 1999 to $8.8 million. Thus, the expense in 1999 was more than four times the average expense in the years 1995-1997 and about 14% greater than the expense in 1998.

The expenses in Accounts 580 and 590 in 2000 were dramatically higher than the greatly inflated amounts charged to those accounts in 1999. As a result, Mr. Effron recommended normalizing the expense levels by increasing the actual expenses incurred in the years 1995-1999 by 3% per year to allow for escalation (inflation and real growth) from those years to 2000 and then taking the five-year average of those escalated expenses to calculate a normalized level of expenses. Applying this methodology results in a five-year normalized expense for Account 580 that is $79,523,000 less than the actual Account 580 test year expense. The normalized expense for Account 590 calculated in this way is $20,055,000 less than the actual Account 590 test year expense.

GCI notes that in response ComEd alleged that the large increase in incentive compensation Mr. Effron identified in his Direct Testimony was due primarily to a change in accounting for that cost. According to Mr. Hill, incentive compensation related to distribution operations was charged to Accounts 920/921 in 1999 and to Account 580 in 2000. However, Mr. Effron posits that this accounting change alone does not account for the substantial increase in Account 580.

On cross-examination, Mr. Voltz reviewed City Cross-Exhibit 38 which shows the "Incentive Compensation Activity" for FERC Accounts 920/921 and 580 for the years 1995 through 2001. He admitted that, absent the accounting change, the incentive compensation included in Account 580 in 2000 the 2000 amounts charged to FERC

Accounts 592, 593, 594, 903 were also abnormal. Accordingly, Mr. Effron recommended levelization adjustments for those accounts.

Expenses included in distribution maintenance Account 592 – Maintenance of Station Equipment for 1995-2000 show pattern similar to those for Accounts 580 and 590. For the years 1995-1997, the expenses were in the range of $7-8 million. In 1998, the expense increased two-fold to $16 million. In 1999, the expense soared to $30 million. In 2000 its average went up again, to $40 million. Thus, the expense in 2000 was four times the expense in the years 1995-1997, 150% greater than the expense in 1998, and about 30% greater than the expense in 1999. Obviously, the expense incurred in 2000 was out of line with ComEd's recent experience. Mr. Effron applied the same normalization method described above for Accounts 580 and 590 to calculate a normalization adjustment of $25,394,000 for Account 592.

Mr. Effron testified that the expenses for Accounts 593, except tree trimming and storm damage which have been separately normalized, and Account 594 in 2000 were not as far out of line with the expenses incurred in earlier years as are Accounts 580, 590, and 592. Nonetheless, the expenses in Accounts 593 and 594 were still significantly higher in 2000 than in prior years. He normalized these accounts using the same method used to normalize Accounts 580 and 590, resulting in adjustments of $8,060,000 to Account 593 and $7,511,000 to Account 594.

Finally, Mr. Effron proposed an adjustment to Account 903 – Customer Records and Collection Expense. The charges to this account for 2000 were abnormally high compared to the actual expenses charged to this account for the years 1995-1999. While charges to Account 903 in 2000 were less than those in 1999, nonetheless, the charges in 2000 were significantly greater than those in the years 1995-1998. To normalize the expense for Account 903, Mr. Effron used the same method used to normalize expenses for Accounts 580 and 590 with one exception. Mr. Effron excluded 1999 from the base period used to calculate the normalized level of expenses because "the $170 million of expenses incurred in 1999 clearly appears as an outlier and, based on the response to City of Chicago Data Request 1.098, contains expenses that are abnormal and of a non-recurring nature." Using the four-year period 1995-1998 as a base for calculating the normalized level of expense charged to Account 903, GCI recommends an adjustment for Account 903 of $32,731,000.

The ARES Position

In its Reply Brief, the ARES Coalition supported GCI's proposed adjustments to FERC Accounts 580, 590, 592, 593, 594, and 903, but that position has now been withdrawn.

ComEd's Response

ComEd pointed out that the vast majority of the increases in distribution salaries and wages and the identified FERC Accounts is based upon refunctionalization and accounting changes. ComEd points out that, though Mr. Effron contended that refunctionalization alone could not explain what he called the "magnitude of the increase" in distribution O&M expenses, he does not deny that refunctionalization and accounting changes occurred in these FERC accounts. Further, ComEd states that on cross-examination, Mr. Effron admitted he had not accounted for certain Commission ordered refunctionalization. In its brief, for the first time, GCI tries to submit new evidence, not in the record, accounting for this refunctionalization, including a new schedule to Effron's testimony not admitted into evidence or exposed to cross examination. This schedule should be rejected. After taking into account both inflation and refunctionalization, ComEd explains that there is no significant real increase in the level of expense in these accounts. Moreover, ComEd states that it has demonstrated that its expenses will continue at or above these levels in future years, whereas Mr. Effron picks and chooses inconsistent years to normalize costs for various proposed adjustments, in a results-oriented fashion and in a manner that even he admits is "somewhat judgmental".

ComEd contends that Mr. Effron's "analysis" in which he proposes a $140,543,000 adjustment to the jurisdictional O&M Expense component of ComEd's revenue requirement based upon "normalization" of various FERC account O&M expenses is flawed, for the following several reasons. First, ComEd noted that the years selectively chosen by Mr. Effron predate substantive, ongoing changes to its distribution planning, operation and maintenance activities that involve increased distribution O&M expenses as compared to earlier years. However, ComEd highlighted the fact that other parties repeatedly claim that ComEd's distribution expenditures in years predating 1999 were inadequate.

Second, the Company explained that Mr. Effron inexplicably omits 2000 test-year data from his normalization of various FERC account O&M expenses. He eliminated consideration of what ComEd indicated should be the starting point of any analysis, as well as the most recent and the most representative year, as discussed above.

ComEd notes that an Illinois utility's rates are to be based upon data from its selected test year, taking into account appropriate adjustments, including known and measurable changes from the test year made through *pro forma* adjustments, not levelized" or "normalized" downward based on proposals without a showing being made that the test year costs are not appropriate. ComEd avers that once it showed the costs needed to provide jurisdictional services, it met its burden of proof, and the burden then shifted to other parties to show the costs should not be recovered. *City of Chicago v. People of Cook County*, 133 Ill. App. 3d 435, 442-43, 478 N.E.2d 1369, 1375 (1st Dist. 1985). The utility does not have the burden of disproving in advance all other issues conceivably relevant to the reasonableness of its rates. *Id.* at 442, 478 N.E.2d at 1375.

Third, the Company argued that Mr. Effron inappropriately uses, for purposes of "normalizing," its O&M expenses incurred in 1995 and 1996. ComEd notes that expenses incurred in 1995 and 1996 occurred even before the 1997 test year that was used in its initial DST case, Docket 99-0117, and that expenses from 1995 and 1996 were accounted for and used to set ComEd's delivery services rates in ComEd's previous DST case. ComEd suggests that it is improper for the Commission to continue to use those outdated expense figures to set new DST.

Fourth, ComEd stated that use of "normalization", as proposed by Mr. Effron, fails to capture expenses that were previously recorded in different FERC accounts. Changes in accounting, including changes in the recording of incentive compensation, are the most significant reasons for the apparent increase in O&M expenses from 1998 to 2000, and, together with refunctionalization, accounted for almost 40% of the increase from 1998 to 2000, and 60% of the increase from 1999 to 2000. ComEd challenges the fact that Mr. Effron does not make any adjustments for O&M expenses that are now contained within FERC Account 580 but were formerly contained within FERC Accounts 920 and 921. ComEd indicated that Mr. Effron thereby summarily denies ComEd recovery of almost $43 million in costs.

Fifth, ComEd points to its recent refunctionalization of certain costs from the transmission function to the distribution function, noting that, as with accounting changes, Mr. Effron's proposed "normalization" period includes years prior to the refunctionalization of costs, but does not include any years thereafter, the Company explains that these refunctionalized costs first appeared in distribution FERC accounts in the 2000 test year. ComEd indicates that Mr. Effron's conclusion would effectively prohibit ComEd from recovering its costs that were appropriately refunctionalized from transmission to distribution, totaling approximately $27 million.

Sixth, ComEd notes that the implementation of open access marked a dramatic change in the way in which Illinois electric utilities conduct business. The Company changed its business processes and information systems to accommodate open access, thereby increasing its costs. It states that it will continue to incur future costs as a result of open access. ComEd points out that Mr. Effron's proposed normalization omits from consideration the only full calendar year in which open access existed.

And, finally, ComEd observes that by his own admission, Mr. Effron uses inconsistent years to "normalize" costs for his various proposed adjustments. For example, he uses the following averages: a five-year average of 1995-1999 to "normalize" distribution O&M expenses in FERC accounts 580, 590, 592, 593 and 594, a four-year average of 1995-1998 to "normalize" FERC Account 903, a six-year average of 1995-2000 to "normalize" tree trimming expenses, and a four-year average of 1996 through 2000 to "normalize" storm expenses, ComEd suggests that his approach amounts to nothing more than a results-oriented manipulation of data whereby Mr. Effron first determined what he considered an "appropriate" revenue requirement, after which he worked backwards to normalize selectively and to reduce test year expenditures selectively in order to achieve his desired result. ComEd notes that even Mr. Effron admits that his approach to "normalizing" ComEd's test year results is "somewhat judgmental". Tr. 2064, 2088.

Commission Analysis and Conclusion

The Commission notes that clearly a utility's rates are to be based upon data from its selected test year, taking into account appropriate adjustments, including known and measurable changes from the test year made through *pro forma* adjustments. In order to adopt a normalization adjustment, the Commission must come to a conclusion that the utility has failed to establish that its test year costs are just and reasonable. Based on the record before us, we cannot come to that conclusion.

Specifically, the Commission rejects any proposal to decrease the actual Account 580 test year expense by $79,523,000 and the actual Account 590 test year expense by $20,055,000. The apparent increase in expenses to these FERC Accounts is based primarily upon accounting changes and refunctionalization. There is no evidentiary showing that it would be appropriate to levelize ComEd's expenses in these FERC Account categories by reference to the averages of such expenses from 1995 to 1999, particularly where such averages fail to take into account the vast majority of incentive compensation paid during those years.

The Commission also rejects proposed adjustments to salaries and wages and to FERC Accounts 592, 593, 594 and 903 because ComEd has adequately explained apparent increases in the amount of such accounts.

In making these findings and conclusions, the Commission notes that, with the support or non-opposition of the Movants, this Order accepts certain recommended reductions in ComEd's distribution O&M expenses proposed in the Liberty audit, including a reduction of approximately $70 million based on Liberty's trend-line analysis, subject to the $8.9 million modificiation discussed later in this Order. Insofar as the Liberty trend-line analysis adjustment addresses expense items that are also the subject of the discussion in this section, the Commission's adoption of the trend-line analysis adjustment is responsive to the concerns underlying the adjustments discussed in this section, and would make acceptance of any such normalization proposals (even if, contrary to the Commission's determination here, they were well-founded) duplicative and unnecessary.

(iii) Salary and Wage Adjustment For General Pay Increases

ComEd proposes a *pro forma* adjustment for the general pay increase provided for in collective bargaining agreements ratified earlier this year. It submits that no party has submitted evidence in opposition. ComEd's contends that its adjustment should be approved.

Staff's Position

With respect to the Company's pro-forma general pay increase adjustment due to new labor agreements, Staff states that this increase is calculated by applying 3.5% to salaries and wages. To the extent that Staff's proposals for salaries and wages adjustments are accepted by the Commission, an additional 3.5% adjustment must be approved to offset the Company's pro-forma adjustment. Staff has incorporated this additional 3.5% into each of its salaries and wages adjustments. (Staff Exhibit 17.0CR, at 30, l. 602 – 615)

ComEd's Response

ComEd agrees that, if any of Staff's salary and wage adjustments were to be adopted, then they should reflect to the extent applicable the wage increase due to the new labor agreements.

Commission Conclusion

ComEd's adjustment is supported by the evidence in the record and is adopted.

(iv) Adjustments for Post-Test Year "Merger Savings"

ComEd's Position

ComEd witness Hill states that the Company removed from its test-year jurisdictional revenue requirement all incremental merger-related costs, and has reflected all jurisdictional test-year merger savings in its adjusted test-year.

Staff's Position

Bill Payment Centers

Staff proposes to decrease customer accounts expense to reflect the closing of certain bill payment centers. Since these closings occurred after the test year, an adjustment is necessary to reflect the resulting decrease in operating expenses.

The Company has identified two bill payments centers that closed in 2001. It also has quantified the savings that will be achieved from having customers mail in their bills rather than using these former payment centers. The closing of these centers constitutes a known and measurable adjustment to test-year operating expenses.

Staff contends that the Company's basis for its objection to this adjustment is that merger costs have already been excluded from the adjusted test-year and that merger savings are already reflected in the adjusted test year. The Company's position suffers from at least three flaws. First, ComEd has never established or provided support for the position that there is a relationship between its merger with PECO and the closing of these two bill payment centers. Second, even if these closings are in fact related to the merger, the exclusion of merger costs from the adjusted test year does not mean that merger savings are also automatically excluded. Staff cites to the cases set forth below wherein the Commission has ordered that merger costs are not to be collected from ratepayers. Furthermore, in the last three cases set forth below, the Commission excluded the recovery of merger costs, while at the same time ordering that the full amount of merger savings be passed-through to the ratepayers:

> **-Illinois-American Water Company 00-0340**
> Proposed General increase in water rates;
>
> **-United Cities Gas Company 00-0228**
> Proposed general increase in gas rates;
>
> **-Central Illinois Public Service Company and Union Electric Company 99-0121**
> Petition for approval of delivery services implementation plan and delivery service tariffs;
>
> **-Union Electric Company 98-0456**
> Proposed general increase in gas rates;
>
> **-Central Illinois Public Service Company 98-0455**
> Proposed general increase in gas rates; -Central Telephone Company of Illinois 93-0252 Proposed increase in local service rates.

Third, the facts contradict the Company's assertion that merger savings are already reflected in the adjusted test year. The only merger adjustment the Company proposed is to deduct implementation and integration costs from the test year expenses. These costs, incurred in 2000, are quantified and reflected in ComEd Ex. 4.0, Schedule C-2.5. On the other hand, the operating expense savings for the bill payment center closings, absent some further Company pro forma adjustment which is lacking, are not reflected at all in the test year data as the closings did not take place until July 2001. Staff argues that ratepayers should not be burdened with funding the operation of bill payment centers that no longer exist. These closings represent a known and measurable change to test year operating expense. Therefore, the Commission should accept Staff's adjustment decreasing operating expense for the closing.

Layoffs

Staff proposed an adjustment to reflect what it contends is a known and measurable reduction of 154 employees, referencing to the several separate announcements the Company has made pertaining to layoffs. Due to redundancies from the merger with PECO, ComEd has announced layoffs of 292 (154 jurisdictional) employees. Staff points out that the Company has announced further merger-related layoffs of 2,900 (1,061 jurisdictional) employees. Furthermore, it recently announced economic-related rather than merger-related layoffs, of an additional 450 (jurisdictionally undetermined) employees. Staff proposed an adjustment to salaries and wages expense for the 154 employees whose termination is both known and measurable. The Company acknowledged that these specific layoffs occurred in September 2001, well within the known and measurable adjustment window. Staff quantified this adjustment based upon information provided by the Company.

As previously noted with respect to the bill payment centers, the Commission has ordered that merger costs are not to be collected from ratepayers. Also, the Commission has excluded the recovery of merger costs, while at the same time ordering that the full amount of merger savings be passed-through to ratepayers. Further, the record evidence in this proceeding does not show that merger savings are already reflected in the adjusted test year. The only merger adjustment proposed by the Company is implementation and integration costs which have been deducted from the test-year expenses. The operating expense savings related to these 154 employees are not reflected at all in the test-year data, since the layoffs did occur until after the test year.

The Company’s contention that severance costs related to these layoffs need to be factored into the adjustment is flawed as well. First, as the Company states, “it is only fair to recognize the costs incurred to achieve the savings.” It would then conversely also be “fair to recognize” that after the eight months of severance costs, these specific costs will not recur. As Mr. Hill pointed out, the Company will not realize actual savings, i.e. no more severance costs, until mid-2002. This is not only within the twelve-month window required for known and measurable adjustments, but is also within the first months that the DSTs will be in effect. Moreover, these savings represent a recurring reduction in operating expenses unlike the nonrecurring severance costs.

Staff also finds unconvincing the fairness issue that the Company uses to argue for its adjustment to be offset by severance costs. For instance, the Company states that non-merger related severance costs are recoverable in revenue requirements, based on the notion that these expenses are normal and recurring. Presumably there is a normal recurring amount of severance costs reflected in the test-year operating statement. However, the severance costs in question are based upon a distinct event rather than normal and recurring.

The ARES Coalition’s Position

The ARES Coalition made proposals with respect to merger savings, which have been withdrawn.

GCI Position

GCI states that in 2000, ComEd’ s former parent company, Unicom, merged with PECO Energy to form Exelon Corporation. Mr. Effron testified that it is likely that there will be substantial savings associated with the merger. He cites to an 8-K SEC filing wherein Exelon represented that approximately 2,900 positions would be eliminated as a result of the merger. According to the filing, these terminations will occur primarily in the areas of corporate support, generation, and energy delivery. In another 8-K filing, Exelon stated that it anticipated that the merger would result in $100 million in savings in the first year and more than $180 million savings by year three.

Thus, Mr. Effron proposed that the revenue requirement be adjusted to reflect merger savings that ComEd can reasonably expect to achieve. Because ComEd did not provide details of projected cost savings, he developed a conservative proxy to estimate these savings. First, Mr. Effron calculated that 2,900 jobs is about 8. 8% of the total of 33,000 Exelon employees in 2000. He testified that he interpreted the statement that the job cuts are to come primarily from the areas of corporate support, generation, and energy delivery to mean that more than 8.8% of the positions eliminated will come from those areas. Based on this assumption, Mr. Effron stated that it also is reasonable to assume that 10% of the positions in those areas will be eliminated. Applying that 10% figure to the 7,205 delivery services employees ComEd had in 2000 results in a reduction of 721 positions. ComEd' s per employee adjusted payroll and payroll-related costs in 2000 was $53,256. Multiplying those figures results in a payroll reduction of $38,371,000. Mr. Effron offset these savings by $10,708,000 to reflect the costs ComEd states it will incur to eliminate the 2,900 positions.

Mr. Hill claimed that Mr. Effron' s proposal should be rejected because his adjustment relates to estimates of savings that are neither known nor measurable. GCI asserts that Mr. Hill' s assertion is wrong. It is known that the merger will produce savings. Exelon' s SEC Form 8-K filing dated March 16, 2001 states that approximately 2,900 positions have been identified to be eliminated as a result of the merger. That will certainly result in expense reductions. ComEd does not deny this. Moreover, GCI maintains that Mr. Effron' s estimate of merger savings is quite conservative. In its September 24, 1999 8-K filing ComEd stated that only 50% of the projected $100 million savings in the first year and the $180 million projected savings over three years will come from labor savings. That is, Mr. Effron's proposal does not account for half of the savings Exelon represents it expects to realize. Further, Mr. Hill' s position is inconsistent with ComEd' s proposed *pro forma* adjustments. Mr. Hill would not admit on cross-examination that the *pro forma* adjustment ComEd proposed for 2001 wage and salary increases could not be measured with precision. Tr. 3490, 3491-92. He characterized ComEd' s estimate of 2001 wage and salary increases as a reasonable estimate. Tr. 3493. Yet, he testified that this reasonable estimate is a known and measurable change. GIC, therefore, claims that ComEd apparently does not demand the same level of specificity of itself when it proposes *pro forma* adjustments that it does of other parties.

Mr. Hill also argued that Mr. Effron' s proposed adjustment reflects impacts that will not be realized until far beyond the end of the test year. However, on that same page of his Rebuttal Testimony, Mr. Hill admitted that employee departures would begin to occur in September 2001, which is approximately nine months after the end of the test year. This does not seem to be an unreasonably long time after the end of the test year for the purpose of recognizing an adjustment for merger savings. In short, ComEd' s criticisms of Mr. Effron' s proposed adjustments are not well-founded. GCI asserts that Mr. Effron' s proposal represents a reasonable and conservative measure of merger savings and should be adopted.

ComEd's Response

ComEd notes that all realized merger costs/savings, including employee reductions and the closing of bill payment centers, have already been correctly reflected in test year expenses.

In response to Mr. Sant's and Mr. Effron's proposals, ComEd contends that the proposed adjustment is without merit and should be rejected. The Company asserts that Mr. Sant's proposed $8,096,000 adjustment is improper for several reasons. First, though it announced the elimination of 154 employees, ComEd will not realize any actual savings from force reductions until well into 2002. Moreover, any adjustment must reflect accurately the full financial impact of actions that benefit customers, which necessarily includes the costs that ComEd has incurred and will incur, such as severance compensation, payroll taxes, and other related costs. However, Mr. Sant's proposed adjustment fails to consider or amortize these costs properly, effectively denying ComEd recovery of the costs that it incurred in the test year to achieve savings beyond the test year.

The Company cites as flawed Mr. Sant's citation to the Commission's decision in the Ameritech/SBC merger case as a basis for denying recovery of the severance costs included in ComEd's revenue requirement. It contends that Mr. Sant's reliance is misplaced. In the Ameritech case, Docket 98-0555, the Commission conditioned its approval of the Ameritech/SBC merger on the understanding that certain costs, including severance costs, would not be recovered from customers. *In re SBC Communications, Inc.*, 1999 Ill. PUC LEXIS 978 at 1-2, 12-13, Docket 98-0555 (Nov. 15, 1999, Amendatory Order on Rehearing). In contrast, the Commission lacked the authority to review, or impose conditions on, the Unicom/PECO merger. Consequently, no conditions limit ComEd's recovery of its severance costs.

ComEd asserts that the remaining orders cited by Mr. Sant in which Illinois electric utilities did not recover merger-related costs, are equally distinguishable, in that the petitioners in those cases affirmatively accepted Staff's proposed disallowance (Dockets 00-0228, 00-0340, and 93-0252); did not challenge Staff's proposed disallowance (Dockets 98-0545/98-0546 (consol)); or attempted to include within the revenue requirement merger costs incurred several years prior to the test-year (Docket 99-0121). In any event, ComEd states that it eliminated <u>all</u> jurisdictional merger-related severance costs from the test year. Of course, there were some non-merger related severance costs in test-year expenses; there is nothing unusual or inappropriate about this. ComEd, therefore, asserts that it properly included in its jurisdictional revenue requirement recoverable severance costs incurred during the 2000 test year, and objects to Staff's proposed disallowance of such costs.

ComEd responds to GC's proposed net adjustment of $27,487,000 for salaries and wages related to future Exelon Corporation employee reductions. ComEd Br. at 73. ComEd notes that GC's proposed adjustment does not meet the known and measurable standard required for pro forma adjustments, nor has GC demonstrated that the work force reductions will decrease ComEd's costs in providing jurisdictional delivery services. ComEd notes that GC's proposed adjustment relates to employee reductions of Exelon, ComEd's parent company, and that any such reductions will occur long after the test year. ComEd points out that Staff witness Sant expressed that GC's proposed adjustment is speculative, not meeting the known and measurable standard, and should be rejected.

ComEd indicates that if any adjustment is made as a result of purported merger "savings", that the Commission must offset any such adjustment by the severance costs that ComEd has, and will, incur.

Commission Analysis and Conclusion

Due to redundancies from the merger with PECO, the Commission notes that the Company has announced layoffs of 292 employees (154 jurisdictional). Further, the Company has announced further merger-related layoffs of 2,900 (1,061 jurisdictional). Additionally, the Company has recently announced layoffs, economic-related rather than merger-related, of an additional 450 (jurisdictionally undetermined) employees. Staff proposed an adjustment to salaries and wages expense for the 154 employees whose discontinuation of employment with the Company is both known and measurable. Moreover, the Commission notes that the Company acknowledged that these specific layoffs occurred in September 2001, which we believe to be within the known and measurable adjustment window. It is reasonable to assume that the Company's labor costs will be substantially decreasing. Staff's proposed $8,096,000 downward adjustment is reasonable in that it is clearly known, measurable and quantifiable. Staff's $765,000 bill payment center closing adjustment also is supported by the evidence. We, therefore, agree with Staff's proposed adjustments relative to these issues. Based on the evidence in the record, we do not adopt GCI's position.

The Commission agrees with Staff's assertions that the Company's arguments relating to the fairness of this adjustment are somewhat disingenuous. It seems that ComEd is a fan of known and measurable adjustments only when such an adjustment inures to its benefit. With regard to Staff's adjustment to reflect the closure of the ComEd bill payment center, we note that the Company asserts that this occurrence has been correctly reflected in its test year expenses. However, our review of the record does not disclose that the closure of the bill payment centers have been correctly accounted for in the Company's calculations. We, therefore, agree with Staff's proposed adjustments relative to this issue. Further, the Commission rejects GCI' s proposed adjustment given that it fails to meet the standards for pro forma adjustments.

e. Other Proposed Adjustments to Expenses

(i) Exclusion of Incremental Expenses Related to Unicom/PECO Merger

ComEd's Position

ComEd, in its direct case, avers that it removed all test-year jurisdictional operating expenses related to the Unicom PECO merger, including any merger-related incentive compensation, resulting in an aggregate downward adjustment of $34,515,000. Since no party submitted evidence in opposition to that adjustment ComEd submits that its adjustment should be approved.

GC Position

GCI asserts that the Company' s seeming gift to ratepayers is illusory. GCI argues that, as part of its largesse, ComEd insists that merger savings must be excluded from the revenue requirement calculation, because it has voluntarily excluded merger costs. It' s projected merger savings greatly outweigh any merger costs. Mr. Effron' s conservative estimate of merger savings related to labor costs reduces ComEd' s annual payroll and payroll-related costs by $38,371,000. Amortizing these costs over ten years results in net annual savings of $27,487,000. Thus, GCI argues that the record shows that, while ComEd purports to give with one hand, it greedily takes back much more with the other hand. The Commission should reject such ostensible charity and adopt Mr. Effron' s proposal which represents a fair and reasonable estimate of the net effects of the merger.

ComEd Response

ComEd indicates that GC's assertion that ComEd's adjustment is illusory is based on erroneous belief of merger savings, as discussed in Section II.D.3.c.iv.

Commission Analysis and Conclusion

Consistent with discussion above, we conclude that ComEd has properly removed merger related costs and finds that the Company should make aggregate downward adjustments of $34,515,000, as well as the Staff adjustments for post-test year merger savings which the Commission finds reasonable in Section II.D.3.d(iv) of this Order.

(ii) Exclusion of Audit-Related Costs

ComEd's Position

ComEd, in its direct case, states that it removed all jurisdictional operating expenses incurred in the test year related to the prior Liberty and Vantage audits, resulting in an aggregate downward adjustment of $2,098,000. Since no party submitted evidence in opposition to that adjustment ComEd asserts that it should be approved.

The ARES Position

The ARES Coalition initially asserted that ComEd had failed to exclude certain additional costs with respect to the Liberty and Vantage reports, but that position and testimony in support of it have been withdrawn.

Commission Analysis and Conclusion

The Commission concludes that the evidence in the record supports ComEd's adjustment, and it is therefore approved.

(iii) Environmental Remediation Expenses

ComEd's Position

ComEd states that it voluntarily reduced its operating expenses for environmental remediation by $16,850,000. The ARES Coalition initially questioned ComEd's adjustment, but their testimony and arguments dealing with that issue have been withdrawn.

GCI's Position

ComEd proposed to include $9,206,000 of environmental remediation costs in test-year A&G expense. Mr. Effron testified that this expense is more than twice as large as for all years from 1996-1999 except one. The costs over from 1996-2000 varied greatly, ranging from $2,001,000 in 1996 to $9,206,000 in the test year. He proposed adjusting environmental remediation costs based on the five-year average for the years 1996-2000, which results in environmental remediation costs of $4,232,000. Application of his labor allocator to this amount reduces ComEd's proposed environmental remediation costs by $1,519,000.

ComEd Response

ComEd states that GC's proposed use of a levelization methodology to increase the adjustment is without merit, as Staff confirmed. Hill Reb., ComEd Ex. 23.0 CR, pp. 15-17; Sant Reb., Staff Ex. 17.0 CR, p. 44.

ComEd points to the testimony of ComEd witness Hill, who testified that the environmental remediation expenses were properly included because they were corporate expenses that should not be bypassed by any retail customer, and are therefore associated with the provision of delivery services. Hill Sur., ComEd Ex. 45.0. ComEd also explains that such environmental remediation expenses, like taxes, are legally mandated by the Illinois Supreme Court, that utilities are entitled to recover such expenses from ratepayers, and that the expenses benefit ratepayers in that paying them allows the utility to remain in business and continue providing service. *Citizens Utility Bd. v. Illinois Commerce Comm'n*, 166 Ill. 2d 111, 120-124, 651 N.E.2d 1089, 1094-1097 (1995). ComEd indicates that because these expenses must be paid in order for ComEd to continue providing service, they meet the definition of delivery services. 220 ILCS 5/16-102.

Commission Analysis and Conclusion

The Commission agrees with ComEd that the environmental remediation expenses were properly included in operating expenses because they are corporate expenses that should not be bypassed by any retail customer. The Illinois courts also have held that the costs of doing business include necessary costs to comply with legally mandated environmental remediation. Therefore, the Commission finds that ComEd's inclusion of environmental remediation costs is appropriate and approves the adjustment as proposed by the Company.

(iv) Advertising Costs

ComEd's Position

ComEd proposes including $1,379,000 in the revenue requirement relating to Informational and Instructional Advertising Expenses. The Company submits that it has demonstrated that those advertising expenses are proper. They relate to, among other things, promotion of an energy conservation program entitled "Energy Start" and publication of a monthly informational bill insert entitled "The Source" which included informational and educational material -- including topics such as conservation/energy efficiency measures, safety information, bill payment options, and environmentally beneficial pricing experiments -- all of which fall squarely within the parameters of Section 9-225 of the Act, and are therefore recoverable. Ms. Bowers' proposed adjustment should be rejected.

The Company submits that following Mr. Hill's testimony, Ms. Bowers altered her theory of disallowance. She stated, "it is my position … that even if the advertisement falls under Section 9-225, a relationship to delivery services should be evident or supported by additional data to be allowable in a delivery services revenue requirement." (Bowers Reb. Staff Ex. 18.00CR at 6:124-27). She then relied upon this "direct relationship test" to claim that the substance of much of ComEd's advertising fails to pass muster.

Ms. Bowers correctly acknowledges that the "direct relationship" test is not set forth anywhere in the Act. Moreover, she acknowledged that she lacks the expertise to evaluate the relationship between the substance of one of ComEd's principal advertisements relating to energy conservation, the Energy Star program, and the provision of delivery services. In sum, there is no legal or factual basis for her advertising disallowances and the Commission should disregard them.

Advertisements for which recovery is permissible under Section 9-225 benefit all customers, including delivery services customers. ComEd avers that this conclusion is borne out by the Commission's decision in Docket 99-0117, its initial DST filing. The Commission's Order in that Docket stated, in relevant part, "[t]he Commission finds in accordance with the Act certain types of advertising as enumerated in Section 9-225(3)(a) through (j) shall be considered allowable operating expenses for utilities." *In re Commonwealth Edison Company*, Docket 99-0117 at 38 (Order August 26, 1999). ComEd has demonstrated that its advertising expenses meet the standard articulated in Section 9-225, possessing benefits to jurisdictional delivery services customers, and are properly recoverable under the Act.

Staff's Position

Staff proposes disallowance of certain advertising costs that it contends: 1) are not recoverable under Section 9-225; 2) are not properly includible in the 2000 test year; and 3) are for an advertising campaign that was cancelled. Ms. Bowers eliminated categories of advertising that she deems are not recoverable under Section 9-255. "Goodwill or institutional advertising means any advertising either on a local or national basis designed primarily to bring the utility's name before the general public in such a way as to improve the image of the utility or to promote controversial issues for the utility or industry." On this basis she eliminated from the test year the costs of certain advertisements that she maintains appear primarily to bring the Company's name before the public. Staff contends that the purpose of these advertisements appears to be to deflect the ratepayers' attention from the numerous outages ComEd has had in the past and to reassure ratepayers that the outages will not happen as often in the future. In essence, she avers that the Company is trying to gain the ratepayers' goodwill.

Ms. Bowers' adjustment also removed from the test year certain costs that were reflected in December of the 2000 test year, but which actually pertained to January 2001, the subsequent year. In addition, she disallowed an advertising campaign the Company cancelled after the costs had been incurred. The ratepayers should not have to cover the Company's change of direction or error.

The ARES Position

The ARES Coalition initially supported Staff's proposal but has withdrawn any testimony supporting it.

ComEd's Response

Staff continues to advocate the disallowance of 87% of ComEd's jurisdictional advertising expenses, changing its rationale at every turn, thereby demonstrating the weakness of its position. First, Staff claimed that all but $15,000 of these expenses were not allowable under Section 9-225 because the advertising was considered "goodwill or institutional." After ComEd challenged this conclusion, Staff relied on the entirely new and legally unsupported theory that, even if the advertising is allowable under Section 9-225, such advertising must be "directly related to the provision of delivery services" to be recoverable. ComEd submits that this argument is legally incorrect as identified in its Initial Brief. ComEd contends that the substance of the advertisements show that they fall squarely within the categories of ads allowable under the Act. Staff now seeks to ignore its previous concession that it disallowed the advertising that was otherwise allowable under Section 9-225 only because the substance was, in Ms. Bowers' mind, unrelated to delivery services. For these reasons, the Company asserts the Commission should reject Staff's ever-changing and legally unsupportable position. ComEd presented extraordinarily detailed evidence showing why these costs are recoverable here.

Commission Analysis and Conclusion

The Commission finds that, in accordance with the Act, certain types of advertising as enumerated in Section 9-225 (3) (a) through (j) shall be considered allowable operating expenses for utilities. Based upon our review of each of the advertisements at issue in this matter, we conclude that the various advertisements do not comport with provisions of the Act. For this reason, we agree with Staff's $1,199,000 proposed disallowance.

(v) Bank Commitment Fees

ComEd's Position

ComEd included the jurisdictional portion of bank commitment fees as an operating expense. It utilized an allocator and determined that approximately 37% of its total bank commitment fees or $902,000 are jurisdictional.

Staff's Response

Staff proposes to disallow 100% of the proposed $902,000 of bank commitment fees on the grounds that ComEd did not specifically tie each fee to a delivery services project. It further suggests that the Company has failed to produce evidence that these fees were excised or used for Delivery Services. Staff suggests that the fees are a form of interest expense that is considered a below-the-line item and not recoverable through the Delivery Services Tariff. Staff points out and the Company acknowledged that lines of credit serve to lower the cost of obtaining certain types of debt.

ComEd's Response

ComEd asserts that its witness Hill demonstrated that Staff's proposed adjustment is erroneous and that bank commitment fees are associated with credit arrangements that support its overall capital structure. As he testified, the cash resulting from lines of credit and credit agreements is not earmarked for specific projects; instead, it is used to supplement working capital and becomes a portion of a larger pool that supports projects throughout the Company and as part of that larger pool is necessarily commingled with funds from many other sources. ComEd avers that direct assignment of these fees therefore is not possible, and the most accurate and reasonable means of identifying the jurisdictional component is through allocations. ComEd contends that the Commission allowed recovery of these fees in Docket 99-0117. Further, ComEd contends that it submitted evidence demonstrating the normality of these fees and how they benefit delivery services customers.

In response to Staff arguments that fees "are a form of interest expense, which is considered a 'below the line item'" the Company asserts that for ratemaking purposes, these expenses are appropriately moved back "above the line" consistent with prior Commission orders allowing recovery of these costs. Contrary to Staff's assertion, such expenses are separate and apart from interest expense and are not factored into the cost of capital analysis.

Commission Analysis and Conclusion

The Commission is mindful of its determination in Docket 99-0117 relative to the inclusion of bank commitment fees in ComEd's revenue requirement. We, however, will look at the evidence presented in this record and make our determination on that basis. We find that ComEd's evidence with regard to inclusion of $902,000 in Bank Commitment fees as a necessary operating expense for delivery services is inappropriate. Accordingly, the Commission adopts Staff's proposed $902,000 reduction in Edison's proposed Bank Commitment fee costs.

(vi) Legal Expenses

ComEd's Position

Mr. Hill testified that during the test year, inside and outside legal expenses incurred company-wide were $28.1 million. Of this amount, ComEd had sufficient data to assign directly legal expenses charged to one FERC account, Account 928. The $5.4 million charged to this account related to specific docketed regulatory matters that were easily identified to a discrete aspect of its business. ComEd determined that $2,510,276 of the expenses charged to Account 928 were jurisdictional.

As to the remaining $22.7 million, ComEd states that it did not have complete detailed information concerning the nature of all other legal matters that would allow for direct assignment of such costs. Therefore, it determined that such costs should be allocated among its business functions. ComEd sought to utilize an allocator that best would approximate the test-year legal expenses attributed to each aspect of its business.

The Company states that in 2001 its parent corporation, Exelon Corporation, restructured its businesses into three operating entities Exelon Generation; Exelon Enterprises operating entity, Exelon Energy Delivery; and a shared services company Exelon Business Services Company (which included the former ComEd corporate center). In order to comply with regulatory requirements, each operating entity was required to estimate the level and cost of legal services that it anticipated in 2001. As a result of this analysis, each entity entered into a Service Level Arrangement ("SLA") with Exelon Business Services Company. Each SLA identified the level of legal resources anticipated in 2001 for each entity. ComEd utilized the SLAs to calculate an appropriate allocator for the remaining $22.7 million in legal fees. Upon completion of its SLA analysis, ComEd determined that the unallocated test-year legal expenses should be allocated as follows: production 26.74%; transmission 5.72%; sales 2.23%; distribution 43.6%; and customer 21.71%. The percentage allocations appear in its 55-page A&G study, ComEd Cross Ex. 29, in columns J through N at each place within the study where specific legal expenses were allocated. Column H of that exhibit identifies the total company expense and columns P through T identify the dollar amount attributable to each function. The expenses relating to the distribution and customer functions are jurisdictional and the total amount of test-year legal expenses allocated to these functions using the SLA allocator is $14.8 million.

ComEd states that it provided Staff with the information described above in response to a data request over a month before Staff's rebuttal testimony was filed. It contends that Ms. Bowers apparently chose to evaluate only a portion of its legal expenses that were the subject of seven data requests (relating only to amounts that appear on lines 116 through 120 and 122 through 123 of ComEd Cross Ex. 29). Of this amount, $8,511,000, she recommends that the Commission apply "the company proposed allocator" of 43.6% to obtain a resulting jurisdictional legal expense of

$3,710,000. The Company submits that her analysis is flawed on additional fronts. It argues that the amount that she concludes is ComEd's proposed jurisdictional legal expenses ($7,541,000), is $10 million less than the actual jurisdictional amount described above and identified in response to a data request. The "allocator" that Ms. Bowers utilizes is the allocator used by ComEd concerning only the distribution function of delivery services. It does not incorporate the legal expenses associated with the customer aspect of delivery services (the 21.71% allocator described above). ComEd submits that Staff has suggested no legitimate factual or legal basis supporting its adjustment to jurisdictional legal expenses.

Staff's Position

Ms. Bowers proposed an adjustment to reduce legal expenses by $3,653,000 to include only costs that are related to jurisdictional delivery services. She testified to the difficulty she had in obtaining information from the Company sufficient to evaluate the legal expenses, as set forth on what eventually became ComEd Cross Exhibit 29. Accordingly, she identified four options for determining an amount to be included in the revenue requirement. Ms. Bowers further testified that, of the four options, Option # 4 was most preferable. This option used the Company's allocator to assign to delivery services only those items that appeared to have some relationship to delivery services.

ComEd's Response

The Company notes that the document to which Staff refers in support of this argument, ComEd's A & G Study, (which ultimately became ComEd Cross 29), was produced on June 7, 2001, six days after the petition in this matter was filed. The Company's June 7 production also included all of the work papers associated with the development and application of the allocators used to functionalize legal expenses. Staff served and ComEd responded its five rounds of data requests relating to this expense. During the five-month discovery period, Staff never filed a motion to compel due to its belief that the information provided was insufficient. ComEd avers that in good faith it believed that it complied with all of Staff's discovery requests and Staff should not be allowed now to assert "lack of information" as a basis for disallowance. Legitimate delivery services expenses should not be disallowed because information sufficient to assign such costs directly simply does not exist. Finally, Staff claims that the option it finds most preferable for allocation of jurisdictional legal expenses employs "the Company's allocator." This assertion, the Company maintains, is simply wrong.

Commission Analysis and Conclusion

We find that Mr. Hill sufficiently explained the methodology employed to attribute its legal services expenses to delivery services. The Company demonstrated it has determined its jurisdictional legal expenses correctly. The Commission rejects Staff's proposed $3,653,000 downward adjustment.

(vii) Charitable Contributions & Memberships

ComEd's Position

ComEd requests that the Commission grant recovery of $2,231,406 million in charitable contributions, membership dues paid to organizations and contributions outside its service territory, such as matching gift programs to institutional organizations, support for engineering schools in disciplines critical to Company operations, and donations designed to encourage sustainable curricula in electrical and mechanical engineering.

Staff's Position

Staff proposes to reduce ComEd's jurisdictional test year costs by $110,000 for charitable contributions made to organizations located outside of its historic service territory. Staff reasons that ratepayers should not pay for charitable contributions which provide them with no benefit. Initially, Ms. Bowers opposed ComEd's inclusion of Edison Electric Institute ("EEI") but reversed her position after agreeing that ComEd had already removed any lobbying expenses from the amount for which it is requesting recovery. Staff also opposes ComEd's dues paid to the National Association of Regulatory Utility Commissioners ("NARUC").

ComEd's Response

ComEd objects to Staff's assumption that donations to organizations outside its service territory do not benefit jurisdictional customers as unsupported, incorrect, and inconsistent with Section 9-227 of the Act. Staff's rationale is that ComEd failed to provide examples of any ratepayer benefit from such contributions. The Company submits that while such a showing is not necessary, the contributions at issue include support for engineering schools at the University of Illinois (Urbana, Illinois), the University of Wisconsin (Madison, Wisconsin) and Purdue University (West Lafayette, Indiana), which encourage curricula in electrical and mechanical engineering, skills critical to ComEd and its customers.

In response to Staff's proposal to disallow certain organizational dues because they were paid "other than to the Edison Electric Institute" ComEd points out that the dues at issue were paid to the National Regulatory Research Institute, a NARUC affiliate. The Company avers that this expense was allowed in prior cases and should be allowed here. *Commonwealth Edison Co.*, Docket 99-0117. According to ComEd, the donations in question are reasonable in amount and support public welfare and charitable purposes. The Company articulates that delivery services customers benefit from contributions outside its service territory.

Commission Analysis and Conclusion

Our review of the Charitable Contributions and Memberships at issue leads us to conclude that contributions to the various institutions or entities in question are not beneficial to delivery services ratepayers. The Commission finds that ComEd's proposed recovery of both Charitable Contributions and Industry-related memberships is not reasonable and Staff's $110,000 downward adjustment is approved.

(viii) Special Projects

ComEd's Position

ComEd included in its revenue requirement, as a "Miscellaneous General Expense," a portion of "Other Experimental and General Research Expenses." Of the total $8,745,000 in that account, ComEd reasons that $4,459,000 represents jurisdictional expenses. It notes that line 3642 of ComEd Cross Ex. 29 indicates a special studies total company cost of $3,170,000, of which $1,174,000 is jurisdictional. The Company points out that the "Other Experimental and General Research Expenses" which Staff refers to as "Research and Development" ("R&D") expenses were already functionalized by ComEd as a part of its A&G study. ComEd also submits that if the Commission accepts Staff's proposed adjustment, a double deduction would occur. According to ComEd, Staff's initial proposal would result in $1,174,000 being deducted from ComEd's revenue requirement twice because "Special Projects" are included in the revenue requirement as an activity within R&D. The jurisdictional amount which ComEd proposes for R&D, $4,459,000, includes $1,174,000 attributable to special projects.

Staff's Position

Staff proposes to disallow $1,174,000 of jurisdictional expenses relating to ComEd's special studies activity because Staff understood these costs to be related to generation and not to delivery services. After further review of the materials following Ms. Bowers' cross examination, Staff revised its adjustment and removed the adjustment proposed for Special Projects as these costs are already reflected in the R&D adjustment.

The ARES Position

The ARES Coalition initially requested that the Commission remove all expenses associated with "special projects" from the proposed revenue requirement, but has withdrawn that position.

ComEd's Response

ComEd discusses the challenged special projects as costs related to jurisdictional delivery services, including outage protection and distribution reliability improvements. The Company notes that it appropriately jurisdictionalized only 37% of such costs.

ComEd noted that the ARES Coalition failed to explain why all of the costs should be disallowed since the Coalition takes exception to only three projects. It further indicated that the Coalition distorted the record in favor of its position.

Commission Analysis and Conclusion

Our conclusion regarding this issue is discussed in the following Section (ix) Research and Development Costs, of this Order.

(ix) Research and Development Costs

ComEd's Position

ComEd states that it incurred $8,745,000 in "Other Experimental and General Research Expenses" during the test year, $4,459,000 of which it submits is jurisdictional. Staff refers to this as R&D expense. This expense is one of ComEd's miscellaneous general expenses which it allocated to various business functions by utilizing a cost driver appropriate for allocating expenses of this type. The allocation appears in its A&G study.

Staff's Position

Ms. Bowers proposed a disallowance for R&D costs for projects that were not related to the provision of delivery services. Staff posits that the limited information provided by the Company indicated that the end result of the R & D would be a marketable product that has no delivery services characteristics. Some of the narrative even discussed the fact that the end result of some aspects of the R & D would be a Business/Marketing Plan. Staff contends that ComEd persists in including R&D costs for projects that are not related to the provision of delivery services.

Staff asserts that included in the record evidence, ComEd Cross Exhibit 31P, Tr. 1782, are various R & D projects that have no relationship to Delivery Services. It points out that one of these projects is for electric bicycles donated to various police departments. Although an admirable gift, this is certainly not an R&D expense that should be borne by the delivery service ratepayers. Another disallowed project provided for an overall Business Plan that is not related to Delivery Services. And ComEd indicates that another project, EPRC Membership, would have been cancelled if not for contractual commitment. Yet ComEd asks Delivery Service ratepayers to pay for something ComEd considers useless. The last example is the project that would develop a fuel cell for vehicles, primarily for airport land vehicles and buses. A portion of this project would develop batteries for non-road and neighborhood vehicles. These two batteries would result in the "marketable products".

Staff avers that ComEd has never disputed the fact that these types of projects are included in its R & D expenses to be recovered from delivery services customers.

ComEd's Response

ComEd asserts that Ms. Bowers proposed to disallow 79% of this expense ($3,529,000) on the basis that ComEd does not have sufficient data to assign these costs directly. In fact, she admittedly disregarded the expenses identified in ComEd's A&G study, ComEd Cross Ex. 29. Ms. Bowers also acknowledged that she evaluated only $1.9 million in R&D expenses. (Tr. 1774:5-10). The $1.9 million represents its company-wide R&D expenses that are tied to a specific project number. The Company suggests that Staff's analysis consisted of determining whether an expense related to a specific project number; if it did not, Staff disregarded it. In other words, if she were unable to assign the expense directly, she disallowed it. Staff does not dispute the R&D expenses on prudence grounds. Rather, its argument is based solely upon the lack of a sufficient "paper trail" for direct assignment. ComEd submits that Staff's disallowance on these grounds is neither reasonable nor legally supportable.

Commission Analysis and Conclusion

Our review of the arguments and evidence regarding this issue leads us to the conclusion that the Staff's proposed adjustment regarding Special Projects and Research and Development Costs in the amount of $3,529,000 is reasonable, supported by the record and should be adopted. Further, we note that in Phase I of this proceeding in its Brief on Exceptions, the Company stated that in order to narrow issues it accepted Staff proposed adjustment. The Commission notes that in Phase II of this proceeding there has been no additional evidence nor arguments presented that warrants that the Commission revisit its earlier determination on this issue. We clarify, that the figure of $3,529,000 includes Staff's Initial Proposed Adjustment related to Special Projects, in the amount of $1,174,000 as discussed in the Section II. D. 3. (viii) of this Order.

(x) Interest On Customer Deposits

ComEd's Position

ComEd proposes to deduct $919,000 of interest on customer deposits from its jurisdictional expenses. The balance of interest on customer deposits assigned to jurisdictional expenses is just and reasonable and is based upon the estimated jurisdictional delivery services revenues as a percent of total year 2000 revenues. ComEd's submits that its proposal, as modified by Staff's adjustment discussed below, is reasonable and should be accepted by the Commission.

Staff's Position

Staff witness Jones proposed an adjustment to a Company error in the calculation of jurisdictional interest and an adjustment to interest on customer deposits based on a change in the annual interest rate. Interest on customer deposits is simply one expense for which there is a known and measurable change; i.e., the interest rate adopted by the Commission on December 6, 2000, in Docket 00-0772. Known and measurable changes to an historical test year are standard practice, used by utilities and Staff, seeking to reflect more clearly present and future conditions. Staff points out that the Company has included several such adjustments in its test year in this proceeding. ComEd has proposed adjustments to reflect known and measurable changes for Distribution Plant facilities placed into service/sold in 2001, salary increases in 2001, discontinuance of the Light Bulb Program in 2001, and rate case expense. Staff submits that its adjustment to customer interest based on a known and measurable change in the annual interest rate is appropriate and should be accepted.

ComEd's Response

ComEd, however, does not agree with Ms. Jones' proposal to change the annual interest rate applicable to customer deposits, even though this adjustment <u>favors</u> it. The Company opposes this suggested adjustment because the change in interest rate looks at only one cost item included in the test year. It contends that this adjustment is not comparable to a *pro forma* adjustment, as Staff suggested. Unlike the Company's *pro forma* adjustments, the interest rate on customer deposits can and usually does change from one year to the next and is merely one cost item in the test year. Given this, Staff's proposed adjustment for the interest rate on customer deposits is neither reasonable nor fair, and it should not be accepted.

Commission Analysis and Conclusion

The Commission approves a downward adjustment in the amount of $919,000, which we note is agreed to by the Company, which serves to correct an error in the Company's calculation of its jurisdictional interest rate for customer deposits. With regard to Staff's second proposal and our review we conclude that the interest on customer deposits is not the typical subject for a pro forma adjustment due to the inherent fluctuation of the rate. Thus, we conclude that the standard upon which Staff's proposal is premised is not applicable and should not be approved.

(xi) Uncollectibles Expense

ComEd's Position

ComEd's proposed revenue requirement includes $16.3 million of jurisdictional uncollectible expenses. Mr. Hill testified that this level is based upon ComEd's complete analysis of uncollectible account expense activity by customer class for the year 2000.

Staff's Position

Staff witness Jones proposed an adjustment to uncollectible accounts, based on an historical four-year average of uncollectibles as a percentage of delivery services revenue. She maintains that her method, which incorporates several years' experience for total uncollectibles, yields a more normal level of uncollectibles for ratemaking purposes than does the one-year analysis of uncollectibles by customer class proposed by the Company.

The four-year average Ms. Jones used was calculated by the Company, based on actual uncollectibles experience for the years 1996-2000, (excluding 1999 due to non-recurring activities), and was the uncollectibles factor included in its Gross Revenue Conversion Factor. The fact that the Company also proposes to use the same average to determine the uncollectibles portion of incremental revenues confirms that it produces a reasonable result. Ms. Jones' adjustment provides a more normal uncollectibles expense level for the test year and should be accepted.

GCI's Position

Mr. Effron calculated uncollectible accounts expense based on the revenue requirement exclusive of uncollectible accounts. He used the uncollectibles account ratio of 0.71% included in ComEd Ex. 4.0, App. C at Sch. A.2.1. He grossed up the total delivery services revenue requirement to reflect the inclusion of 0.71% uncollectible accounts expense.

Similar to Staff's approach, Mr. Effron's method uses ComEd's four-year average for uncollectible accounts ratio and recognizes that changes in the revenue requirement will cause changes in the uncollectible accounts expense. His proposed uncollectible accounts expense is $10,209,000, a reduction of $6,091,000 from ComEd's proposed level. Mr. Effron pointed out that his proposal is similar to that adopted by the Commission in Docket 99-0117, while ComEd's proposal resembles the method of determining uncollectible accounts expense that the Commission rejected as overly complicated in Docket 99-0117, Order at 24.

The ARES Coalition's Position

The ARES Coalition initially supported Staff's proposed adjustment, but its testimony supporting Staff's proposal has now been withdrawn.

ComEd's Response

ComEd reiterates that uncollectible expense includes two components -- the actual test-year expense and the expected incremental uncollectible expense resulting from an increase in delivery service rates. Staff agrees. However, Staff's proposal to substitute its estimated expense for the actual test-year expense is not based on any analysis of actual test-year uncollectible expense. ComEd's actual test-year uncollectible expense was based on a detailed review of the test year uncollectible account activity. Staff's approach is flawed for several reasons. First, because test-year expense is known, it is the actual expense, and that there is simply no reason to "estimate" it. Second, the approach of estimating a known test-year expense is counter to the principles underlying the use of a historical test year and smacks of single issue ratemaking. Finally, ComEd's estimate for the uncollectibles expense impact from incremental revenue of 0.71% of revenue is conservative when compared to the actual test-year rate of 0.9% of revenue.

Commission Analysis and Conclusion

We find unconvincing Staff's proposal to replace ComEd's actual, cost-based analysis with an artificial "estimate". In this instance we have an actual expense that is known. Staff's suggestion that we use out-of-period year expenses to come up with an estimate of this expense to be utilized in setting rates is unreasonable and we must, therefore reject its adjustment to ComEd's uncollectibles expense. For these reasons, we approve ComEd's proposal.

(xii) Taxes Other Than Income Taxes

ComEd's Position

In its rebuttal testimony, ComEd reversed two downward adjustments in an aggregate amount of $4,967,000 that it had made in its direct case for Taxes Other than Income Taxes -- relating, in particular, to the Illinois Electricity Distribution Tax -- because further analysis and factual developments showed that one of these downward adjustments (amounting to $1,192,000) was unwarranted due to an inadvertent error. The second adjustment (amounting to $3,775,000) follows from the logic of the GCI's proposed adjustment to real estate taxes. No party contested the reversal of either adjustment. Its reversal of those adjustments should be approved.

Use Tax

Staff's Position

Ms. Jones proposed an adjustment to remove out-of-period state use tax of $1.401 million from test year 2000 operating expenses. The tax liability resulted from a sales tax audit for the period October 1994 through December 1997. In his rebuttal and surrebuttal testimonies, ComEd witness Hill presented three reasons for including the tax in the test year. He argues that the tax is a legitimate business expense imposed by Illinois tax law. Ms. Jones does not dispute this aspect of his argument. However, even a legitimate business expense should pertain to the test year. Staff's proposed adjustment does not disallow any use tax paid in the test year on purchases made in the test year. The adjustment disallows only use tax incurred in periods prior to the test year, specifically, October 1994 through December 1997.

Staff next cites to Mr. Hill's second argument that the use tax relating to capitalized plant and equipment would be in plant-in-service but for the Company's accounting policy, which is to account for tax audit adjustments as expense. Ms. Jones agrees. However, in Mr. Hill's surrebuttal he testifies that the majority of the additional use tax liability is related to plant and equipment that is included in rate base. Apparently the Company had the information necessary to reclassify the use tax assessment for ratemaking purposes but chose not to do so or to provide the parties to this case with such information.

Although Mr. Hill's third argument is that the Company is routinely subject to tax compliance audits resulting in either an increase or decrease in tax liabilities, he presents no evidence that the additional use tax liability recorded in 2000 for prior years represents a "normal level." On the contrary, he states in his surrebuttal testimony that these audits do not happen every year. (ComEd Ex. 45.0 at 30) The Company filing, which supports this assertion, indicates that Account 408.1, the sales and use tax expense account in which tax audit liabilities are recorded, had a total balance of zero for 1999 and $15,278 for 1998, as compared to $3.8 million for 2000. This clearly indicates a disparity among years. Thus, Staff contends that the evidence in this proceeding shows that the use tax expense in question does not reflect a normal, recurring expense that pertains to the test year. Therefore, Ms. Jones' adjustment to remove this out-of-period expense is just and reasonable and should be accepted.

GCI's Position

Mr. Effron proposed reducing ComEd's Illinois use tax on purchases included in cost of service from $1,401,000 to $275,000. He explained that the amount ComEd booked in 2000 covers a 39-month period and includes $1,366,000 of interest. Mr. Effron stated that the interest component should be excluded as ratepayers should not be responsible for charges assessed for a late tax payment. He added that the amount booked in 2000 should be recovered over 39 months so that the amount included in rates is indicative of the annual expense. These changes reduce ComEd's proposal by $1,126,000.

ComEd's Response

ComEd states that it opposes the Staff proposal to disallow 100% of this expense. Despite the fact that Staff recognizes it is a legitimate expense, it raises no new points in its brief. GCI disagrees with Staff's position and acknowledges that ComEd's proposed use tax is appropriately included in the revenue requirement. The Company posits that the only differences between its proposal and GCI's proposal are: GCI's assertions that the use tax should be recovered over 3.25 years, and that the interest amount included in ComEd's proposal should be completely disallowed. The Company asserts that GCI's suggestion that ComEd recover this amount over time runs afoul of test year principles and should be rejected. Moreover, to disallow the interest expense would discourage ComEd from pursuing an aggressive tax policy and ultimately would be detrimental to ratepayers. The jurisdictional Use Tax includes interest in the amount of $505,420 ($155,513 if recovered over 3.25 years). Further, ComEd contends that GCI's point that ratepayers should not be required to pay interest for late tax payment is incorrect. As a business principle, ComEd pays only those taxes which it believes are legitimately due under the tax laws. If ComEd employed a less aggressive tax policy, one would logically expect that its tax expense would be higher; therefore, its tax policy ultimately results in lower jurisdictional expenses. The Company suggests that if the Commission disallows the interest component, it effectively punishes the Company for having an aggressive tax policy.

Payroll

Staff's Position

Staff proposed adjustments to taxes other than income to account for payroll taxes that would change proportionately based upon Staff's proposed adjustments to salaries and wages expense.

GCI's Position

Certain of Mr. Effron's adjustments to O&M expenses concerned adjustments to the labor expense included in the revenue requirement. Because payroll tax expense is based on labor expense, he adjusted payroll taxes to reflect the changes made to labor expense.

ComEd's Response

ComEd objects to GCI's payroll tax adjustment because it rests on an underlying labor expense adjustment that it considers to be unwarranted.

Real Estate Tax

GCI's Position

Mr. Effron proposed an adjustment to real estate tax expense, stating that ComEd's proposed expense consists of an accrual of taxes to be paid in 2001, a true-up of the accrual booked in 1999, and refunds received in 2000. The true-up ComEd booked in 2000 added $1,367,000 to the accrual booked in 1999. That is, ComEd underestimated the accrual in 1999 and had to book that amount in 2000 to true up the accrual in 2000. The Company's real estate tax proposal assumes that it again will underestimate the accrual for 2000. Mr. Effron testified that it is not an appropriate assumption to make because in each year from 1995-1999, ComEd overestimated the accrual for the prior year. Tr. 3473-74; City Cross Ex. 86. In other words, the true-up ComEd booked in 2000 was an anomaly compared to recent history. The five-year average applicable to delivery service facilities for 1996-2000 was a negative $1,266,000. Thus, Mr. Effron recommended that the true up booked by ComEd in 2000 be reduced by $2,633,000. Mr. Effron later corrected the figure for his proposed reduction to be $1,854,000.

The ARES Position

The ARES intitially supported the Staff and GCI adjustments, but withdrew their testimony supporting this position to the extent inconsistent with the conclusions below..

ComEd's Response

ComEd conditionally accepts GCI's real estate tax adjustment.

Commission Analysis and Conclusion

The Commission finds reasonable ComEd's proposed downward adjustments to the revenue requirement in an aggregate amount of $4,967,000 that it had made in its direct case for Taxes Other than Income Taxes -- relating, in particular, to the Illinois Electricity Distribution Tax -- because further analysis and factual developments showed that one of these downward adjustments (amounting to $1,192,000) was unwarranted due to an inadvertent error. The second adjustment (amounting to $3,775,000) follows from the logic of the GCI's proposed adjustment to real estate taxes. The Commission notes that no party contested the reversal of either adjustment. We find that these two adjustments are reasonable and should be approved.

We find convincing GCI's argument relative to the Illinois Use tax and adopt its suggestion that the interest component be excluded as ratepayers should not bear the burden for a late tax payment. The Commission, however, declines to adopt GCI's proposal relative to the 39-month recovery period for this item. Thus, applying the jurisdictional allocation factor of 37.02% we conclude that the approved adjustment is $506,000.

With respect to GCI's proposal to adjust payroll taxes, consistent with our conclusion relative to O & M expenses that impacted payroll taxes we decline to adopt this proposal. We accept GCI's real estate tax accrual true up adjustment in its corrected amount of $1,854,000.

(xiii) Incentive Compensation

ComEd's Position

ComEd states that Staff witness Sant, in his corrected rebuttal testimony, proposed a revised downward adjustment to jurisdictional incentive compensation of $24,561,000. ComEd states that while it does not agree that any downward adjustment is warranted, in order to narrow the issues in this proceeding, it is willing to defer to Mr. Sant on this revised adjustment.

Staff's Position

Staff proposes two adjustments, one to distribution salaries and wages expense and the other to A&G salaries and wages expense, for the incentive compensation expenditures tied to financial goals of the Company. Staff believes these specific goals primarily benefit shareholders rather than ratepayers. While the Company still believes the incentive compensation component included in its proposed revenue requirement to be reasonable and appropriate, accepts Staff's proposed adjustment in order to narrow the issues in this proceeding.

GCI' s Position

GCI proposes an adjustment to incentive compensation based upon a review of Edison' s historical evidence. GCI submits that Mr. Effron demonstrated that ComEd' s proposal is significantly higher than the average for the five-year period 1996-2000. He testified that the expense has fluctuated in recent years and should be normalized by using the 1996-2000 average. This five-year average results in incentive compensation charged to A&G expense of $38,977,000, which is $7,517,000 less than that proposed by the utility. Applying Mr. Effron' s labor allocator to this amount reduces A&G expenses by $2,698,000.

ARES Coalition's Position

The ARES Coalition initially proposed an adjustment to incentive compensation, but its testimony and arguments in support of that adjustment have been withdrawn.

ComEd's Response

ComEd has shown with detailed evidence that the remaining incentive compensation costs included in its revised proposed jurisdictional revenue requirement that are not challenged by Staff are prudent and reasonable costs of providing jurisdictional delivery services that benefit customers by improving the quality and efficiency of operations.

Commission Analysis and Conclusion

Generally, the Commission has not been receptive to the concept of inclusion of incentive compensation plan in base rates. In those instances that we have allowed recovery of incentive compensation programs, utilities have demonstrated that the goals set forth for their incentive compensation plans reduced operating expenses and created greater efficiencies. In this instance, we note that the Company has agreed to Mr. Sant's adjustments of $12,380,000 for distribution salaries and wages expense and $12,181,000 for A&G salaries and wages expense. Furthermore, the Commission finds

Staff's adjustment to be reasonable. Staff's proposed adjustments relate to earnings per share and shareholder value added goals. These goals seem to provide value to shareholders, not ratepayers and should be disallowed.

Taking into consideration those adjustments, we believe that ComEd has demonstrated through the testimony of Mr. Meischeid that its incentive compensation plan provides certain benefits to delivery services ratepayers and improved efficiencies to its operations. As noted in Mr. Sant's testimony, the Company identified more than $33,211,000 of incentive compensation tied to achievement of key performance objectives. We find that the achievement of these objectives during the year 2000 benefited ratepayers. ComEd's performance in each of the identified areas was better as a result of the payment of incentive compensation and ratepayers benefited from this improved performance. On this basis, we find that the inclusion of $33,211,000 of incentive compensation in ComEd's revenue requirement is supported by the evidence in the record, is reasonable and should be approved.

Liberty's proposed adjustment relating to incentive compensation is discussed below.

(xiv) Rate Case Expense

ComEd's Position

ComEd adjusted its Illinois jurisdictional rate base to reflect an outstanding recovery of prior rate case expenses previously approved by the Commission in Docket 99-0117. *Commonwealth Edison Co.*, Docket 99-0117 (August 26, 1999 at 20). The Company's requests that the Commission reaffirm its prior approval of recovery of these costs as reflected in ComEd's calculations in this docket.

ComEd also proposes the recovery and amortization of its legal fees and expenses in the current proceeding over a period of three years. Its proposed rate case expenses include expenses incurred in 2001 and those expenses incurred in Docket 01-0423 including any post-hearing briefs and appeals. ComEd's proposal did not include any Phase II rate case expense.

Commission Analysis and Conclusion

Consistent with our determination of this issue in our Order in Docket 99-0117, we affirm our approval of ComEd's recovery of rate case expenses. Under the terms of Section 16-108 of the Act, the Commission is obligated to permit an electric utility an opportunity to recover its reasonably and prudently incurred costs associated with providing delivery services. Additionally, the Commission approves ComEd's proposal for the recovery of its legal fees and expenses in the current proceeding over a three-year period for ratemaking purposes.

(xv) Outside Collection Agency Expense

The Company allocated to delivery services 100% of outside collection agency expense incurred in the test year. Staff witness Jones proposed an adjustment to reduce this expense by $1.106 million, based on the ratio of DST revenue requirement to total 2000 revenue in the test year. DST ratepayers should not bear the total expense for collecting unpaid bills, which include charges for the cost of generation, transmission and distribution services. The ARES state that they support Staff's proposal. The Company does not object to Staff's proposed adjustment.

Commission Analysis and Conclusion

The Commission concludes that Staff's adjustment to reduce the outside collection agency expense incurred in the test year in the amount of $1.106 million is reasonable and proper and should be accepted.

(xvi) Customer Service Expenses

The Liberty Audit

The Liberty audit report proposes additional reductions in customer account, customer service and information costs (FERC accounts 900-910). The following table summarizes Liberty's proposed adjustments in these areas:

Summary of Adjustments ($000)

Adjustment	Interim Order	Liberty	Net	Report Ref.
Customer Care Center	-	$4,048	$4,048	IV-10
System Billing	-	2,320	2,320	IV-14,15
Meter Reading	-	1,220	1,220	IV-17
Revenue Management	$765	6,584	$5,819	IV-19
Outage Communications	-	91	91	IV-29
Net Downward Adjustment	**$765**	**$14,263**	**$13,498**	

Liberty's adjustments are in addition to the adjustments already included in the Interim order for bill payment center closings, employee layoffs and outside collection fees, which are discussed and approved elsewhere in this Order. The additional reductions recommended by Liberty, and summarized above, total $13,498,000.

The Phase II rebuttal testimony of Jerome Hill indicates that many of these proposed adjustments are outside scope of Liberty's audit using the standards applied by GCI witness Effron in his Phase II direct testimony. These out-of-scope adjustments include the following proposed disallowances; Interpreter Services $766,400; CSR coverage $960,000; Call Center SLAs $440,000; Improved Estimating Algorithm $450,000; Document Imaging $170,000; Eliminated Billing Contractor/ Overtime

$1,700,000; Improved meter reading accuracy $300,000; Reduction in manual processing $200,000; Prioritized second meter reads $720,000; Risk scoring $1,700,000; Reduction in uncollectibles $1,744,000, and Eliminated Agent Compensation $1,392,900. The Phase II reply testimony of Mr. Hill (ComEd Ex. 126.0) also addresses certain of the foregoing topics.

The Commission agrees that these adjustments are beyond the scope of the audit and they are therefore rejected. The remaining customer service expense adjustments proposed by Liberty total $2,954,000.

Without conceding the merit of Liberty's position and in order to narrow the issues in this proceeding, ComEd supports the inclusion of this $2,954,000 reduction in customer service expenses in this order, and the other Movants join in that support. The Commission finds that the proposed $2,954,000 reduction is supported by the evidence in the record, is reasonable, and it is therefore approved.

(xvi) Depreciation Expense

Liberty proposes a downward adjustment to annual depreciation expense in the total amount of $31,768,000 to reflect a lower depreciation rate that ComEd was using for planning purposes in anticipation of the completion of a new depreciation study. The new depreciation study was not completed and filed by ComEd until July 2002, has not been presented or advocated by any party in this Docket, and is not before the Commission for purposes of its decision in this Docket. Liberty presented the following table setting forth a comparison of ComEd's depreciation rates from the company's 1988 study with the expected (anticipated for planning purposes) rates from the 2002 study:

Depreciation Rate Studies in 1988 vs. 2002

			Date of Studies			
Account Numbers	**General DST Account Description**	**Type**	**1988**	**2002 (est.)**	**Change**	**% Change**
360-367, 369, 371, 373	Structures, Poles, Conduit, Services, etc.	DIST	3.60%	2.44%	-1.16%	-32.22%
368, 370	Line Transf., Meters & Devices	DIST	3.60%	3.33%	-0.27%	-7.50%
360-362, 364-367	Structures, Poles, Conduit, Conductor, etc.	HVDT	2.40%	2.02%	-0.38%	-15.83%

Liberty assumed a similar reduction of 0.4 percent for ComEd's HVDT facilities and arrived at an overall reduction of 0.4 percent to the depreciation expense factor, which produced the recommended reduction of $31.768 million.

GCI, through the Phase II testimony of Mr. Effron, recommends against adoption of Liberty's proposed depreciation expense adjustment. Mr. Effron points out that this adjustment is beyond the scope of the audit ordered by the Commission and that further study of ComEd's change in depreciation rates is necessary before adoption of a depreciation expense adjustment based on that change. Staff through the Phase II rebuttal testimony of Mr. Struck agreed with Mr. Effron that Liberty's proposed adjustment for new depreciation rates is beyond the scope of the audit and opposed the adjustment.

ComEd was willing to accept the disallowance only if the same reduced rates were employed in calculating Liberty's proposed adjustment to accumulated depreciation. Liberty did not concur.

ComEd also submitted the Phase II reply testimony of Jerome P. Hill (ComEd Ex. 126.0) on certain of the foregoing topics.

The Commission agrees with GCI's and Staff's position. The adjustment is beyond the scope of Liberty's audit. In addition, ComEd's change in its depreciation rates took place well after the close of the 2000 test year. To make any determination in this Order regarding the July 2002 filing, which is not even before us, would implicate the concerns underlying the temporal limitations on *pro forma* adjustments and would be inappropriate. Accordingly, the Commission rejects Liberty's proposed downward adjustment in depreciation expense, and approves only the remaining $8,147,000 of depreciation expense adjustments resulting from the Audit Report reflected on Appendix A. These findings are not and should not be understood as making or relying upon any determination regarding the new depreciation study filed in July 2002 and the rates therein. As stated above, that study is not before the Commission in this Docket. The Commission has not made and need not make any finding under Section 5-104 of the Act regarding the new depreciation study filed in July 2002 and the rates therein. Such a finding is beyond the scope of this proceeding and there is no basis in the evidence in the record to make any such finding. Thus, this Order does not constitute a determination regarding the appropriateness of the new depreciation study filed in July 2002 and the rates therein. Nothing in this Order should be relied upon to constitute a determination regarding any rates that may be proposed for use after the transition period.

4. Prudence of Expenses

ComEd's Position

ComEd states that it offered detailed and substantial evidence concerning the prudence of its operating expenses. It imposes thorough financial controls and procedures in order to manage and control its expenses, which it submits ensure that spending does not occur which is imprudent or which causes the Company to incur excessive costs. ComEd describes that its test year O&M expenses were subject to these controls, thus ensuring that no imprudent or excessive costs were incurred. The Company also states that Mr. DeCampli performed a comprehensive review of the major components of its O&M and A&G expenses both internally and as compared to analogous expenses of others, and that he concluded that ComEd's adjusted O&M and A&G expenses were just and reasonable and prudent.

Intervenors' Positions

Several parties argued that ComEd's O&M expenses in the test-year included an increment attributable to past imprudence, as more thoroughly discussed in Section II.D.5.

ComEd's Response

ComEd discusses a variety of explanations of the apparent overall increase in O&M expenses in the test year, and of increases in various particular FERC Accounts, compared with O&M expenses in 1997 or intervening years, and opines that none of the increases involved "make up" expenses or imprudence. ComEd attributes the overall apparent increase: 1) changes in accounting, particularly, refunctionalization of O&M in compliance with the FERC "seven factor" test, a change in the FERC accounts to which distribution-related incentive compensation is booked, and changes reflecting Commission rulings on rehearing in Docket 99-0117; 2) increased load on the ComEd system; 3) tree trimming expenses associated with achieving a four year cycle; 4) new and improved storm outage restoration practices; and 5) new maintenance procedures designed to maintain and improve the reliability of ComEd's distribution system.

The Company indicates that in late 1999 it embarked upon an aggressive maintenance campaign to inspect, monitor, repair, replace, or upgrade major equipment such as transmission lines, substations, and feeder cables as part of ComEd's commitment to enhance the maintenance and corresponding reliability of its system.

The Liberty Audit

In addition to the recommended reductions in ComEd's distribution rate base, Liberty proposed the following incremental adjustments to distribution O&M expenses summarized in a table from page II-1 of Liberty's report:

Summary of Distribution O&M Adjustments ($000)

Adjustment	Interim Order	Liberty	Net	Report Ref.
Incentive Compensation	$12,380	$22,215	$9,835	II-13
Tree trimming	$4,703	-		
Storm management	5,771	-		
Salaries and wages	9,739	-		
Subtotal	$20,213	$90,363	$70,150	II-10
Total	**$32,593**	**$112,578**	**$79,985**	

Because tree trimming, storm management and salaries and wages adjustments are discussed under separate headings earlier in this Order, Liberty's incremental adjustments to distribution O&M expenses for consideration here are (1) the $9,835,000 adjustment to reflect capitalization of incentive compensation and (2) the $70,150,000 recommended disallowance based on a 1991-2004 trend line analysis described in Liberty's report. To summarize, the Liberty analysis assumes that ComEd's distribution O&M spending level in 1991 was reasonable at that time and that a 2004 target provided to Liberty during the audit approximates a reasonable level of spending for ComEd going forward. Drawing a line between the two spending levels, Liberty concludes that ComEd's actual 2000 distribution O&M spending exceeded the year 2000 point on the trend line by approximately $90 million, thus leading Liberty to propose an additional $70 million downward adjustment to the distribution O&M level established in the Interim Order. Liberty also relies (1) on a comparison of ComEd's 2000 spending on various distribution activities with spending levels in the immediately preceding years, and (2) on a comparison of ComEd's 2000 spending per customer with spending levels by other electric utilities.

ComEd's Response

The evidence submitted by ComEd in response to Liberty's audit report is summarized in Section II C. 7(b). ComEd does not oppose the $9,835,000 adjustment to capitalize incentive compensation payments, provided that the corresponding adjustment increasing ComEd's rate base is reflected in the Commission's order in this proceeding.

Liberty's distribution trend line analysis and resulting proposed disallowance were opposed in testimony submitted by ComEd. They are discussed in detail by Ron Williams (ComEd Ex. 104.0), who testified that Liberty's proposal to disallow $90 million of ComEd's 2000 distribution O&M expenses based on a 1991-2004 trend line analysis is unreasonable, is based on unwarranted assumptions and other methodological flaws, and is not supported by an analysis of the reasonable O&M expenses levels required in 2000 to provide reliable service to ComEd's customers. Mr. Williams explains that the assumptions on which the trend line analysis is based are invalid, making Liberty's conclusion unsupportable and incorrect. The assumption that distribution O&M spending in 1991 is a proper indicator of prudent spending levels in 2000 is wrong because, among other things, significant changes have occurred in the distribution business since 1991 and customer expectations and demands for reliability have increased. The conclusion that there have been significant changes in the electric distribution business and that customer expectations and demands for reliability have grown considerably in recent years is confirmed by ComEd witness Robert Donohue (ComEd Ex. 101.0).

The assumption that distribution O&M expenses should increase at a relatively steady annual rate is also wrong, Mr. Williams explains, as indicated by the evidence of significant variability in annual expense levels for utilities throughout the country. Mr. Williams also disagrees with the assumption that a 2004 projection setting forth goals for ComEd's spending constitutes evidence that actual 2000 distribution spending levels requires adjustment.

ComEd's testimony (in particular the testimony of Ron Williams and Dr. Jim Williams) analyzes specific spending categories highlighted by Liberty, and explains that the examples provided by Liberty do not support the overall conclusion of Liberty's trend line analysis that ComEd's distribution O&M expenses should be reduced by $90 million. In addition to the discussion of each specific area, ComEd points out that the $90 million reduction recommended by Liberty represents a cut of nearly 24% in O&M spending, whereas the specific examples that Liberty presents in support of its contention that excess spending occurred identify much lower percentage reductions in expenses.

Finally, in response to Liberty's comparison of ComEd's O&M expense levels to other utilities, the testimony of Ron Williams provides a broader comparison, which takes into account such spending categories as customer service, administrative and general, information and depreciation expenses, all of which are necessary to provide delivery services to customers. This broader comparison shows that ComEd's 2000 spending per customer on its delivery service functions was at about the median of the top 30 utilities.

ComEd also submitted evidence questioning whether a double-count was included in the distribution O&M disallowance and/or whether Liberty had failed to reflect an upward *pro forma* adjustment for distribution salary and wages approved in the Interim Order.

GCI's Response

GCI submitted evidence supporting Liberty's incremental distribution O&M disallowance and opposing Liberty's incentive compensation capitalization disallowance, but recognizing that Liberty had failed to reflect an upward *pro forma* adjustment for distribution salary and wages approved in the Interim Order and also pointing out certain other concerns regarding the quantfication of the distribution O&M disallowance.

Rebuttal Evidence

Liberty, ComEd, and GCI submitted evidence in support of their respective positions, including GCI's testimony regarding Liberty's failure to reflect the $7.1 million *pro forma* Salaries & Wages adjustment approved in the Inteim Order. ComEd refined its analysis of the overstatement of the distribution O&M disallowance if it were to be adopted, showing an $8.9 million overstatement. ComEd also submitted additional, post-rebuttal evidence in support of its position.

Reply Evidence

ComEd submitted the Phase II reply testimony of Paul R. Crumrine (ComEd Ex. 121.0), Karl A. McDermott, Ph.D (ComEd Ex. 122.0), and Jerome P. Hill (ComEd Ex. 126.0) on certain of the foregoing topics.

Commission Analysis and Conclusion

Although ComEd has presented significant evidence in response to Liberty's proposed distribution O&M disallowance, the Movants, including ComEd, now support the inclusion of Liberty's $70,150,000 adjustment in the Commission's order, modified to eliminate $8.9 million of the overstatement as shown by ComEd's evidence failures to reflect offsets.

Based on the evidence in the record, and without prejudging any issues that may arise in future cases on this subject or where similar adjustments may be proposed, the Commission finds that Liberty's $70,150,000 global trend line adjustment, modified by an offsetting $8,900,000 correction, is supported by the facts in the record, is reasonable, and therefore is approved.

The Commission also finds, based on the evidence in the record, that Liberty's $9,835,000 incentive compensation capitalization adjustment is supported by the facts, is reasonable and is therefore approved. Because the removal of $9,835,000 of incentive compensation from ComEd's distribution O&M expenses is based on the position that the amount should be capitalized, a corresponding upward adjustment in ComEd's rate base is appropriate and is approved as reflected in Appendix A, page 13 to this order, along with related adjustments of $1,401,000 to general and intangible plant, $315,000 to accumulated depreciation – distribution plant, $64,000 to accumulated depreciation – general and intangible plant, and $171,000 to accumulated deferred income taxes, which are also approved as reflected in Appendix A, page 13.

E. Cost of Capital

1. Capital Structure

ComEd's Position

ComEd proposes a capital structure with a common equity ratio of 46.01%, which ComEd indicates appropriate *pro forma* adjustments to the long-term debt balance to take into account principal repayments scheduled through December 31, 2002 on Transitional Funding Instruments Notes ("TFI"). According to ComEd, the resulting long-term debt balance was $6,963,798,000. A *pro forma* adjustment was also made to reflect ComEd's corporate restructuring in January 2001, resulting in a year-end 2000 common equity balance of $5,933,786,000.

GCI's Position

GCI supports the capital structure recommended by Ms. Freetly with a common equity ratio of 42.86%.

Staffs Position

Staff witness Janis Freetly recommends approval of ComEd's proposed *pro forma* adjustments to the long-term debt balance to take into account TFI principal repayments scheduled through December 31, 2002. However, Staff proposes as a starting point that the Commission use a March 31, 2001 balance of long-term debt, resulting in a balance of long-term debt of $6,965,641,050. Staff also recommends approval of a common equity balance of $5,224,000,000 and approval of a capital structure with a common equity ratio of 42.86%.

ComEd's Response

ComEd accepts the capital structure proposed by Staff witness Janis Freetly, with a common equity ratio of 42.86%.

Commission Analysis and Conclusion

The Commission concludes that the evidence in the record supports Ms. Freetly's proposed capital structure with a common equity ratio of 42.86%. The Commission finds that this capital structure is reasonable and it is therefore approved**.**

2. Cost of Debt

Staff recommends a 6.95% cost of long-term debt. ComEd accepts Staff's proposal, as does GCI.

The ARES Coalition initially introduced testimony concerning allocation of debt costs between the supply business and the delivery business, but that testimony has been withdrawn.

Commission Analysis and Conclusion

The Commission finds that the evidence in the record supports the 6.95% cost of long-term debt proposed by Ms. Freetly. The Commission concludes that the cost of debt proposed by Ms. Freetly includes no differing debt costs between the supply business and the delivery business. The 6.95% cost of debt calculated by Ms. Freetly takes into account only debt that supports the delivery services business and therefore is the cost of debt to ComEd as a delivery services company. The 6.95% cost of long-term debt proposed by Ms. Freetly is reasonable and is approved.

3. Cost of Preferred Stock

ComEd has stated that it had no outstanding preferred stock as of December 31, 2000. As a result, all witnesses who address cost of capital issues agree that the cost of preferred stock for ComEd is 0%. ComEd supports Ms. Freetly's recommendation that no portion of ComEd's weighted average cost of capital be attributable to preferred stock.

Commission Analysis and Conclusion

The Commission finds that the evidence in the record supports the conclusions that ComEd has no outstanding preferred stock and, therefore, no portion of ComEd's weighted average cost of capital should be attributable to preferred stock.

4. Cost of Common Equity

ComEd's Position

ComEd indicates that its witness Thone submitted testimony concerning ComEd's cost of equity which he estimated to be 13.25% by using three different methods to determine ComEd's cost of equity capital -- the capital asset pricing model ("CAPM"), the discounted cash flow ("DCF") approach, and the Value Line comparable return on equity ("ROE") expectations approach.

Other Parties' Positions

Staff estimates ComEd's cost of equity to be 11.72%. The ARES and GCI concur with the 11.72% cost of equity recommended by Staff. We note that in their Initial Briefs, GCI suggested that the Commission address the effect of ComEd's provider of last resort ("POLR") obligation on its cost of equity capital, because the issue "might arise at a later date in another case." GCI Brief at 5. The ARES Coalition raised a similar point but its argument has now been withdrawn.

ComEd's Response

ComEd accepts Ms. Freetly's cost of equity estimate, provided that Ms. Freetly's proposed capital structure with a common equity ratio of 42.86% also is adopted, resulting in a weighted average cost of capital for ComEd of 8.99%.

With respect to the request to address POLR issues in the Commission's order, ComEd states that there are no issues to resolve. ComEd's testimony proposing a 9.95% WACC did not include an upward adjustment to reflect POLR risk. As ComEd notes, Ms. Freetly's 8.99% WACC includes no upward POLR risk adjustment, and, in fact, she testified that "an upward adjustment ... is unwarranted." Freetly Reb, Staff Ex. 19.0, p. 20. ComEd states that GCI's suggestion that the Commission make findings on an issue that is not presented in this case because it may be presented in some future case should be rejected because the Commission should not enter advisory opinions on issues that are not before it.

Commission Analysis and Conclusion

The Commission finds that the 11.72% cost of equity proposed by Ms. Freetly is supported by the evidence in the record, is reasonable and therefore is approved. The Commission finds that no POLR risk upward adjustments were made by Mr. Thone or by Ms. Freetly, and thus no issue is presented for our determination in this proceeding concerning the effect of POLR risks on ComEd's cost of equity capital. Therefore, the Commission declines to make any findings on that issue.

5. Overall Rate of Return

ComEd states that because ComEd has no preferred stock, the cost of capital comprises the cost of debt and the cost of common equity. ComEd indicates that ComEd determined the cost of each of these components of its capital structure, and then applied these individual capital costs to each component of the Company's 2000 capital structure, with appropriate *pro forma* adjustments, arriving at a 9.95% weighted average cost of capital, as reflected in the following Schedule 11.1 from the testimony of ComEd witness Ebright:

Cost Of Capital Summary
Pro forma End Of Year 2000

			Cost or Earnings	
Class of Capital	Amount (000's)	Percent of Total	End of Year	Weighted
Long Term Debt	$6,963,798	53.99%	7.14%	3.85%
Preference/Preferred Stock	0	0.00%	0.00%	0.00%
Common Equity	5,933,786	46.01%	13.25%	6.10%
Total	$12,897,584	100.00%		9.95%

To arrive at ComEd's overall annual cost of capital for purposes of determining ICC jurisdictional delivery services rates, this 9.95% cost of capital was applied to the proposed delivery services rate base of $4,083,927,000.

Staff recommends that the Commission approve the 8.99% weighted average cost of capital based on the following capital structure:

Cost Of Capital Summary
Pro forma End Of Year 2001

Class of Capital	Amount (000's)	Percent of Total	Cost or Earnings End of Year	Weighted
Long Term Debt	$6,965,641	57.14%	6.95%	3.97%
Preference/Preferred Stock	0	0.00%	0.00%	0.00%
Common Equity	5,224,000	42.86%	11.72%	5.02%
Total	$12,189,641	100.00%		8.99%

ComEd, in order to narrow the issues in this proceeding, has stated that it is willing to accept Ms. Freetly's weighted average cost of capital estimate, and recommends the approval of this estimate by the Commission. In making this recommendation, ComEd does not concede the merit of the arguments made in opposition to Mr. Ebright's analysis referred to above.

Commission Analysis and Conclusion

The Commission finds that Ms. Freetly's 8.99% weighted average cost of capital is supported by the evidence in the record. The Commission finds that Ms. Freetly's recommendation for the weighted average cost of capital is reasonable and is therefore approved. ComEd's capital structure, the component costs of that capital, and the weighted average cost of capital approved by the Commission are therefore as follows:

Cost Of Capital Summary
Pro forma End Of Year 2001

Class of Capital	Amount (000's)	Percent of Total	Cost or Earnings End of Year	Weighted
Long Term Debt	$6,965,641	57.14%	6.95%	3.97%
Preference/Preferred Stock	0	0.00%	0.00%	0.00%
Common Equity	5,224,000	42.86%	11.72%	5.02%
Total	$12,189,641	100.00%		8.99%

F. Cost of Service and Rate Design

1. Cost of Service Study Issues

a. Marginal Cost Study

ComEd's Position

Initially in this proceeding, ComEd (as well as DOE and Midwest) strongly advocated the use of marginal cost ratemaking principles. ComEd's position was based on its view that the legal mandate of cost based rates, the associated principle of assigning costs in accordance with cost causation, and the concerns of economic efficiency and sending economically correct price signals that are pivotal to the proper development of the market, are all best served by the marginal cost based approach. ComEd noted that its witnesses Juracek, Gordon, Clair, Crumrine, and Makholm all testified that marginal cost ratemaking was consistent with these principles and concerns.

DOE's Position

As indicated above, DOE endorsed ComEd's proposed marginal cost ratemaking approach, arguing that marginal costs are the correct costs for setting rates that lead to economic efficiency.

DOE asserted that its witness and others dismissed the arguments of Messrs. Lazare, Luth and Chalfant in rebuttal testimony. In particular, Dr. Swan notes that Mr. Lazare's statement that marginal cost pricing is only relevant in the "artificial world of perfect competition" and cannot be applied to real world markets is quite simply wrong. Further, Dr. Swan testified, "...regulators have long attempted to reflect in their regulated outcomes the conditions that would obtain in a perfectly competitive world." (DOE Exhibit 2.0 CR, lines 45-46).

Dr. Swan testified that there is absolutely no theoretical foundation for using average embedded costs as the basis for determining class revenues and rates.

Staff's Position

Staff argues that the Commission should adopt the embedded cost methodology. It claims that the use of a marginal cost study is inappropriate in theory and that ComEd's marginal cost proposal itself was deficient. Having already accepted embedded costs for the delivery services rates of ComEd and all other Illinois utilities, Staff contends the Commission should remain uniform and consistent and again require the use of an embedded cost study.

In opposition to the Company's position, Staff states that the use of a marginal costs study is deficient, there is no consistent set of principals for calculating marginal costs, the study presented by the Company is flawed and contains distortions, and use of a marginal cost study conflicts with Commission precedent.

Staff argues that, because there is no consistent set of principles for calculating marginal costs, ComEd's proposal does not reflect costs caused by existing customers and sends price signals irrelevant to rates set by this proceeding, the use of ComEd's marginal cost approach distorts its revenue requirement, and ComEd's proposal "significantly" conflicts with Commission's precedent, including the result in Docket 99-0117.

Midwest's Position

Like DOE, Midwest argued in favor of ComEd's marginal cost methodology. Midwest contended that relative prices for ComEd's Rate RCDS for different customer groups should be based on the relative marginal costs of providing services to these groups.

The ARES Position

The ARES Coalition contends that the Commission should continue to reject the Company's attempt to base its rates on a marginal cost of service study. The ARES Coalition asserted that embedded costs provide the best measure of a utility's ability to compete with alternative providers. Given that the Commission, in the Company's previous DST proceeding, has already approved the use of embedded costs, the ARES Coalition argues that acceptance of the marginal costs methodology (or a flip-flop) would add another level of uncertainty into the market place. This, the ARES Coalition contends, is clearly contrary to the direction given to the Commission in the Act. The ARES Coalition asserted that its witnesses and those of Staff and certain Intervenors all agreed that Edison has presented nothing new in its testimony in the instant proceeding to vary from an embedded cost of service study ("COSS").

The ARES Coalition requests that the Commission reject ComEd's request to change the underlying method for calculating its DST rates from an embedded cost methodology to a marginal cost methodology. The ARES Coalition withdrew this testimony, however, to the extent that it would be inconsistent with employing an "across the board" increase within the non-residential classes, as discussed below.

GCI's Position

GCI argued that the Commission should accept the embedded cost methodology in this case. It argued that each of Edison's cost studies contain a number of questionable assumptions, techniques and allocations that shift costs to the least protected customers in competitive markets. GCI cited several theoretical flaws with marginal costs of service studies. GCI contended marginal COSS prove to be less easily corrected than an embedded COSS. They do not lead to economic efficiency. The Company's study fails to recognize distinctive marginal costs of production, particularly with respect to the costs of new facilities installations. Lastly, GCI asserted the Company's definition of marginal costs is based on improper judgmental assumptions.

NEMA's Position

NEMA opposes ComEd's marginal cost approach claiming, among other things, that a marginal cost approach is contrary to Commission precedent. NEMA cites to the Commission Order in 99-0117 particularly, "Embedded costs provide the best measure of a utility's ability to compete with alternative providers." Order, p 57. NEMA asserts the consumer should be provided with transparent and accurate pricing signals for the full panoply of products, services, information and technologies they are currently purchasing from the utility. NEMA contends embedded costs are precisely the price that customers currently pay but do not see. Conversely, NEMA argues that the use of marginal costs to develop rates will understate and distort the prices customers actually pay, and as a result will hinder the development of the competitive market and both increase the costs and timing of a transition to a fully competitive market for competitive services. NEMA withdrew this testimony, however, to the extent that it would be inconsistent with employing an "across the board" increase within the non-residential classes, as discussed below.

IIEC's Position

It is IIEC's position that ComEd's marginal cost study should not be used for revenue allocation and rate design in this proceeding. IIEC asserts the theory which underlies the use of marginal cost for revenue allocation and rate design has never been clearly established. The calculation of marginal cost has also been a matter of disagreement and dispute. Also, IIEC claims there has never been a general agreement on how such costs are to be calculated.

Instead of ComEd's marginal cost approach, and instead of the embedded cost methodology that Staff and other parties advocated, the IIEC advocates that the Commission should adopt an "across the board" methodology. Pursuant to the IIEC's proposal, all customer classes would bear an increase over ComEd's present rates. The IIEC argues that this approach maintains present cost relationships between customers.

TrizecHahn's Position

TrizecHahn noted that the evidence on marginal and embedded cost studies presented in this proceeding was in conflict. Like IIEC, it argued that the fairest approach would be to allocate any revenue requirement increase to customers on an equal percentage across-the-board basis. TrizecHahn later withdrew this testimony, however, to the extent that it would be inconsistent with employing ComEd's embedded

COSS as revised to establish the residential-non-residential split and cost allocation among residential classes, as discussed below.

Commission Analysis and Conclusions

As described in Section II F 2 of this Order, the Commission finds that an embedded cost methodology should be used in this proceeding to allocate the jurisdictional revenue requirement between residential customers as a whole and non-residential customers as a whole. The Movants all support or do not oppose use of ComEd's embedded cost of service study as revised for this purpose, and the evidence supports their position.

However, the evidence concerning the use of marginal or embedded cost methodologies for allocating costs within the various classes of non-residential and residential customers is seriously in conflict. Both approaches have been criticized in the testimony.

IIEC and TrizecHahn have submitted testimony advocating an alternative "across the board" approach to allocation of the revenue requirement, as discussed further below. Based on this evidence, the Commission concludes that, although the "top level" split of the jurisdictional revenue requirement between the residential and non-residential classes as a whole should be based on ComEd's embedded cost of service study as revised (as discussed in Section II F 2), the allocation of the revenue requirement among various classes within non-residential customer categories should be based on "across the board" methodology. Under this approach, the share of the revenue requirement assigned to non-residential customers will be allocated among classes of non-residential customers by increasing (or decreasing) on an "across the board" (equal percentage) basis the delivery services charges now in effect (*i.e.,* the non-residential rates approved in Docket 99-0117). Despite initial opposition by various parties who advocated use of marginal or embedded cost principles in this proceeding (as discussed above), the Movants now support or do not oppose adoption of this "across the board" approach to establish delivery services rates for non-residential customers after the "top-level" split.

With respect to residential customers for whom delivery services rates were first set in the Interim Order in this docket based on the embedded cost of service study filed by ComEd as revised, the share of the revenue requirement assigned to and among these customers will be based on the embedded cost of service study.

The Commission finds that the foregoing top-level split and use of the "across the board" approach for non-residential customers and the embedded cost of service approach for residential customers is supported by the evidence in the record and produces delivery services rates that are fair, reasonable and cost based for all customer classes.

b. Embedded Cost Study

The Commission finds, as it did in the Interim Order, that the embedded COSS provided by the Company, as modified and corrected in its rebuttal and surrebuttal testimony, was properly performed. The Movants all support or do not oppose use of ComEd's embedded COSS as revised for the purpose of allocating the jurisdictional revenue requirement between residential customers as a whole and non-residential customers as a whole. The ComEd embedded COSS as revised should be used for that purpose based on the evidence in the record. It also should be used to allocate costs among residential classes as stated above.

2. Interclass Revenue Allocation

ComEd's Position

ComEd initially suggested that the Commission should adopt a marginal cost based approach to ratemaking in this proceeding, as discussed earlier. Other parties argued for an "across the board" approach or an embedded approach. ComEd stated that, as to the allocation of the proposed jurisdictional revenue requirement between residential customers as a whole (in the aggregate) and non-residential customers as a whole (in the aggregate) in this particular proceeding, it is willing to accept that highest level allocation (and only that allocation) being made based on ComEd's embedded COSS as revised in Phase I. ComEd explained its reasons for that willingness in this proceeding. In Phase II, ComEd filed revised rate design spreadsheets, one for its initial Phase II revised proposed revenue requirement and one for the $1,517,000,000 revenue requirement. ComEd Ex 113.1, 115.3. The former used an embedded cost approach. The latter used the embedded approach for the top-level split between residentials and non-residentials and among residentials, but the "across the board" approach among non-residentials.

IIEC's and TrizecHahn's Position

IIEC and initially TrizecHahn proposed an "across the board" allocation for all nonresidential customer classes, claiming that all non-residential classes should bear an equal percentage increase over present rates to maintain current cost relationships. Further, both parties asserted that for the residential class, the remaining revenue requirement be assigned to the overall residential class and allocated among the individual residential classes in proportion to each class' relative embedded cost share within the total residential class. TrizecHahn ultimately withdrew its opposition as to use of the embedded cost approach for the top-level split and among residentials.

Commission Analysis and Conclusion

We find that the allocation of the jurisdictional revenue requirement between residential customers as a whole and non-residential customers as a whole shall be based on embedded COSS, as revised. The Movants all support or do not oppose this allocation methodology, and it is supported by the evidence in the record. It results in an allocation of about 52% of the revenue requirement to residential customers, with the remaining 48% being allocated to non-residential customers. The allocation among residential classes and among non-residential classes shall be as provided earlier in this Order.

G. Rate Design

ComEd initially proposed a residential delivery services rate design based upon a marginal COSS. In the Interim Order, the Commission approved a residential rate design based on the ComEd embedded COSS filed in this docket as revised in Phase I. No party contested the residential rate design based on the embedded COSS other than as discussed earlier or ComEd's residential and updated non-residential distribution loss factors ("DLFs"). The Commission has addressed the cost allocation issues in the preceding subsections of this Order. Issues have been raised concerning a variety of other rate design questions including the demand ratchet, billing demand definitions, generation facilities under Rate RCDS, Rider HVDS, Rider ISS pricing, residential customer eligibility for the power purchase option, the methodology for calculating the single bill option ("SBO") credit, the methodology for calculating metering charges, proposed Rider TS, and the minimum duration on bundled rates for residential delivery service customers who switch to bundled rates. Each of these issues will be addressed in the remainder of this Order.

1. RCDS Rate Design

a. Demand Ratchet

(i) General Service Ratchet

ComEd Position

ComEd proposes as part of its Rate RCDS a 12-month "demand ratchet" for non-residential delivery services customers that are demand-metered. ComEd notes that its witnesses Clair, Crumrine and Gordon testified that the proposed demand ratchet improves the allocation of costs in accordance with cost causation and reduces intra-class cross subsidies flowing from high load factor customers (in brief, customers with more level demands) to lower load factor customers (in brief, customers with "peakier" demands). ComEd submits that its witnesses also opined that the demand ratchet sends economically correct price signals, encourages economic demand-side management (and other "peak-shaving" tools) and distributed generation, which promotes market stability and supply reliability. *E.g.*, Clair-Crumrine Dir., ComEd Ex. 12.0 CR, pp. 9, 13-19; Gordon Dir., ComEd Ex. 2.0, pp. 15-17.

ComEd explains that the demand ratchet was necessary because customers with more level demands tend to cause fewer distribution system costs than do customers with "peakier" demands because ComEd must take such peaks (among other factors) into account in planning and installing distribution facilities. *E.g.*, Clair-Crumrine Dir., ComEd Ex. 12.0 CR, p. 15:330-45. The demand ratchet allocates costs to customers with "peakier" demands who cause the costs to be incurred, according to ComEd.

ComEd also explains that the proposed demand ratchet is calculated on a rolling 12-month basis and because it applies only to demand-metered non-residential customers, the economic concerns that sometimes have been raised in opposition to demand ratchets are of significantly reduced magnitude and the end result is a fair balance of the competing considerations. *E.g.*, *id*. at pp. 18-19. Moreover, ComEd indicates that the proposed demand ratchet does not increase ComEd's jurisdictional revenue requirement and is designed to be revenue neutral, *i.e.*, the higher "ratcheted" demand levels are offset by lower unit charges so that the product of the billing units and the charges yields the same revenue requirement per class. *E.g.*, *id*. at p. 14.

Staff Position

Staff disagrees with ComEd's demand ratchet proposal, in part, because the proposal was inconsistent with the Commission's findings in Docket No. 99-0117. Staff instead supports billing on monthly peak demand, and argued that ComEd's statements supporting a 12-month ratchet period, particularly those relating to energy efficiency, were baseless.

DOE Position

The DOE supports ComEd's demand ratchet proposal. DOE witness Swan testified that ComEd's proposal should be accepted by the Commission. Swan Dir., DOE Ex. 1.0 CR, pp. 3:49-4:53, 18:367-22:457. The DOE agreed with ComEd that unratcheted demand charges do not properly match rates and costs.

ARES Position

The ARES Coalition argues that ComEd's proposed 12-month ratchet should be rejected. They contended that ComEd failed to prove the demand ratchet was necessary or appropriate for cost recovery. They also argue that penalizing customers for their highest actual demand misrepresents the stress customers place on distribution system and a more appropriate ratchet is declining factor of on-peak demand for the last 6 months. The ARES Coalition claims that the aesthetic appeal of annual ratchet was outweighed by ComEd's failures to demonstrate that; (a) its investments tuned precisely to customer's single highest annual costs, (b) its demand structure is consistent with increasing reliability, and (c) its absence resulted in unfair sharing of delivery service burden for past two years of competition.

GCI Position

GCI opposes ComEd's demand ratchet proposal. They claim that the annual demand ratchet is unfair to customers and inconsistent with the principle of cost causation. They also argue that the proposal was inconsistent with ComEd's actual distribution investment practices.

BOMA Position

BOMA opposes ComEd's demand ratchet proposal and argued that the proposal is unfair to customers. Like GCI, BOMA stresses that the proposal was inconsistent with the principle of cost causation and ComEd's actual distribution investment practices.

TrizecHahn Position

TrizecHahn opposes ComEd's demand ratchet proposal and argued that ComEd's request for an annual demand ratchet was anti-competitive. TrizecHahn claims that customers would have a major disincentive to leave ComEd's bundled rates where one spike in the demand will set the basis for the demand charge for an entire year.

ComEd Response

ComEd points out that the arguments against the annual demand ratchet are generally little more than efforts by various beneficiaries of cross-subsidies to maintain those subsidies and pleas to repeat the ruling in Docket No. 99-0117 even though the evidentiary record in this proceeding does not support that ruling. ComEd indicates that the demand ratchet far better matches costs with cost causation, and to suggest that because it is not an absolutely perfect match it should be rejected in favor of a rate design with no demand ratchet and a much less accurate association of costs with cost causers makes no sense and is contrary to Section 16-108(c) of the Act. ComEd contends that the Commission has stressed the importance of assigning costs in accordance with cost causation, including in its recent Order in Docket No. 00-0802, and that high load factor customers should not unnecessarily be required to subsidize lower load factor customers. ComEd submits that the ARES Coalition's assertions and other similar assertions are not consistent with the evidentiary record. Likewise, ComEd also contends that it showed that Staff's concerns largely are unwarranted and, even in the aggregate, simply do not come close to offsetting the legal and factual grounds for the demand ratchet.

Commission Conclusion

The Commission rejects ComEd's demand ratchet proposal. In addition to being inconsistent with the Commission's findings in Docket No. 99-0117, the annual demand ratchet is not necessary in order to allocate costs in accordance with cost causation. The Commission approves Staff's approach, which relies on continued billing on monthly peak demand.

(ii) Special Ratchet for Standby Customers

ComEd Position

In addition to proposing an annual demand ratchet, ComEd also requests an annual ratchet for generation and standby customers. Even if the Commission failed to approve the general demand ratchet, ComEd still sought an annual ratchet for generation and standby customers. Clair-Crumrine Dir., ComEd Ex. 12.0 CR, pp. 17-18.

ComEd notes that its witnesses Clair and Crumrine explained that unless an annual ratchet is used for standby and generation customers, many of those customers will essentially evade delivery services facilities charges. Clair-Crumrine Dir., ComEd Ex. 12.0 CR, pp. 15-16; Clair-Crumrine Reb., ComEd Ex. 31.0 CR, p. 12. ComEd states that this result is not only plainly unjust and unreasonable, but it will create significant and unfair cross subsidies that will be detrimental to other customers. *Id.* ComEd states that the IIEC's concerns about ComEd's standby and generation customers' alternative ratchet proposal do not warrant Commission rejection of the proposed demand ratchet as to these customers. Clair-Crumrine Reb., ComEd Ex. 31.0 CR, pp. 15:336-20:452; Clair-Crumrine Sur., ComEd Ex. 49.0 CR, pp. 6:131-8:171.

IIEC Position

The IIEC took no position with respect to ComEd's general request for a demand ratchet for all delivery service customers. The IIEC argues, however, that the Commission should not impose a demand ratchet for standby customers and that these customers should be allowed to enter into contracts with ComEd for delivery capacity.

NEMA Position

NEMA argues that the Commission should approve standby rates which only require investors with distribution generation resources to pay for the actual energy used and that customers should only pay when they actually use energy.

Commission Conclusion

The Commission, as stated above, rejects ComEd's request for an annual demand ratchet for all delivery services customers and thus also rejects ComEd's request for an annual ratchet for generation and standby customers.

b. Definition of Billing Demand in Rate RCDS

ARES Coalition Position

The ARES Coalition argues that ComEd's definition of "billing demand" for Rate RCDS should be changed. ARES Coalition recommends that the definition of "billing demand" for Rate RCDS should be the same as ComEd's definition of the term in its bundled rates. The ARES Coalition argues that ComEd's use of a non-coincident demand measure doesn't capture the "diversity" of customers that ensures that customer's peak demand rarely occurs in the same 30-minute window, and would result in over-collecting for that distribution capacity. It also asserts that the revision is required to: (a) temper the bias towards historical billing months under ComEd's proposal; and (b) create more consistency in rates. Alternatively, ARES Coalition witness Ulrich proposes that the Commission should adopt alternative definitions that put less emphasis on historical months, such as a declining factor demand determination.

ComEd Response

ComEd responds that ComEd's Rate RCDS uses the correct definition of billing demand. ComEd states that the arguments and counter-proposal of the ARES Coalition for such a revision is premised on the incorrect assumption that the definition of billing demand under ComEd's tariffs is the average of the three highest 30-minute demands rather than the single highest 30-minute demand. ComEd points out that "[f]or the vast majority of non-residential customers, the billing demand definition in ComEd's Rate RCDS is identical to that of the bundled service billing demand." Clair-Crumrine Reb., ComEd Ex. 31.0 CR, p. 33. ComEd suggests that the single highest demand is the best indicator of the delivery costs that a given customer imposes on ComEd and accurately reflects the amount of distribution equipment that is in place to serve the customer's actual needs, which a billing demand definition that utilizes an average of the three highest demands clearly understates.

Commission Conclusion

The Commission rejects the proposal of the ARES Coalition to modify the definition of billing demand for Rate RCDS. The Commission agrees with ComEd and finds that the single highest demand is the best indicator of the delivery costs that a given customer imposes on ComEd and accurately reflects the amount of distribution equipment that is in place to serve the customer's actual needs, and therefore is approved.

c. Impact on CTCs

ComEd Position

ComEd states that impact of its revised proposed revenue requirement on customers will be limited as a result of Customer Transition Charge ("CTC") offsets. ComEd notes that a positive CTC establishes that the customer, group or class is receiving the full mitigation factor under the CTC formula. In Phase I, data submitted by ComEd witnesses Alongi and Kelly showed that even with the delivery services charges in ComEd's original proposal (those resulting from its original higher proposed revenue requirement) and with the then-current market values for the "Period A" under approved Rider PPO, customer classes and groups representing over 90% of ComEd's non-residential customers will be in customer classes that have positive CTCs, so that any proposed increase in delivery service collections will be completely offset by reductions in those customers' CTCs. Consequently, ComEd witness Juracek testified that:

> [A] substantial portion of the increase in ComEd's revenue requirement will have no effect on total charges to delivery services customers. It will simply decrease, or eliminate, ComEd's collection of monies through CTCs applicable to delivery services customers. In essence, to this extent, the increase in the costs of providing delivery services is being funded by reductions in ComEd's stranded cost recovery.

Juracek Dir., ComEd Ex. 1.0, pp. 20:528-21:533.

In Phase I, ComEd noted that it had provided updated calculations that were even more favorable to customers. ComEd pointed out that forward market prices for electricity had fallen significantly below where they were when the markets values in the then current Period A under Rider PPO were set, and if they remained lower as some parties then projected, then even more customers would be in customer classes with positive CTCs. Juracek Reb., ComEd Ex. 20.0, lines 412-424, 458-462, 473-506, 535-586; ComEd Exs. 20.1 (class CTCs), 20.2 (group CTCs). Indeed, ComEd noted that IIEC witness Robert Stephens commented in his direct testimony that, under then current prices, if Period A Rider PPO prices were to be set at that time they would be approximately 25% lower than the then current Period A prices. Stephens Dir., IIEC Ex. 1.0 CR, p. 9-10. ComEd contended that, even with ComEd's proposed jurisdictional revenue requirement, the then current status of forward market prices and projections would yield similar if not even more favorable results in terms of positive CTCs, including a positive CTC for the largest residential customer class. Juracek Sur., ComEd Ex. 41.0 CR, lines 79-81, 319-322, 538-559; ComEd Exs. 41.2, 41.3, 41.4, 41.5).

ARES and BOMA Position

The ARES Coalition and BOMA initially disputed ComEd's position concerning the CTC impact, but all testimony and arguments in support of that contrary position have now been withdrawn.

ComEd Response

ComEd contends that the Act entitles ComEd to cost-based delivery service rates. Any effect on CTCs, ComEd argues, is merely a byproduct of setting rates in accordance with the Act requirements. ComEd notes that DOE witness Swan explained that:

> The overcharge to high voltage customers is currently making it more difficult for them to save money by purchasing power from ComEd's competitors. Eliminating the subsidy will have the opposite effect. It will, other things constant, encourage more high voltage customers to take delivery service from ComEd and buy their power from alternative suppliers.

As a result, ComEd argues that if some rate increases resulting from the elimination of cross-subsidies are not absorbed fully by reductions in CTCs, then the beneficial impact on customers who have been overcharged warrants the changes.

In Phase II, ComEd presented an updated customer billing impact analysis of its rate design based upon its revised proposed revenue requirement, using unratcheted demands. This analysis, which is attached to the Phase II testimony of Paul Crumrine as ComEd Ex 113.2, updates the customer billing impact analysis originally presented in Attachment G to the direct panel testimony submitted by Lawrence S. Alongi and Sharon M. Kelly in Phase I of this proceeding (ComEd Exhibit 13.0 CR), and uses the same methodology. Specifically, this updated analysis shows sample calculations of the CTC for the CTC Customer Classes defined in ComEd's Rate CTC – Customer Transition Charge, assuming market value credits for electric energy and power that are equivalent to the currently effective Applicable Period A Load Weighted Average Market Values developed for each corresponding class in ComEd's Rider PPO – Purchase Power Option (Market Index). CTCs are shown for the current Applicable Period A that extends from June 2002 to May 2003. There are two columns of CTCs shown in bold type on page 1 of Exhibit 113.2 to reflect the increase in the mitigation factor effective January 1, 2003, as required by the Illinois Public Utilities Act.

Commission Conclusion

ComEd has reduced its proposed jurisdictional revenue requirement since its direct case, and, along with the other Movants, now supports approval of a

$1,517,000,000 revenue requirement (excluding Miscellaneous Revenues). Given this reduced revenue requirement, and the substantial evidence indicating that, to a very large degree, any increase in the jurisdictional revenue requirement since Docket No. 99-0117 will be offset by CTCs, any concerns raised by the parties about the impact of increases in the revenue requirement are without foundation.

In addition, the Commission notes that the Movants, including ComEd, have proposed that individual CTC calculations be made available to a broader group of customers that required by law and ComEd's present tariffs, extending in most cases to all customers in the "at and above 400 kW" category or group.

d. Generation Facilities Under Rate RCDS

As explained in the Phase II direct testimony of ComEd witness Paul Crumrine, the adoption of Rider ZSS – Zero Standard Service ("Rider ZSS") addressed the issues that were raised by Midwest in this proceeding concerning the treatment of generation facilities under Rate RCDS.

As discussed under the following section of this Order dealing with Rider HVDS, customers that are eligible for Rider ZSS have been removed from the computation of the HVDS credit. This approach is supported or not opposed by the Movants, and the Commission finds that it is supported by the evidence in the record.

2. Rider HVDS

a. Eligibility

ComEd Position

ComEd proposes a new Rider HVDS – High Voltage Delivery Service which contains a credit per kilowatt applicable to that portion of the demand used for billing each month under Rate RCDS which is served from the Company-owned lines that enter the customer's premises at a voltage of 69,000 volts or higher. ComEd suggests that Rider HVDS would replace Rider 11 – Service at 69,000 Volts or Higher ("Rider 11") for delivery services customers, although Rider 11 would remain in effect for bundled customers. ComEd states that the proposed credit reflects the fact that, in general, because there are fewer distribution facilities in place to serve such a customer, the costs incurred to serve the customer are lower on a per kW basis than for other customers that are served at lower voltages, and Rider HVDS would provide a mechanism that appropriately reflects the cost of service to these customers. ComEd states that the proposed HVDS credit dramatically improves the allocation of costs in accordance with cost causation by eliminating cross subsidies flowing from high voltage customers to other customers.

DOE and Midwest Positions

The DOE supports ComEd's proposed Rider HVDS and contends that there is "overwhelming" record evidence to warrant the HVDS credit for the 69 kV and greater customers. Midwest also endorses Rider HVDS consistent with the testimony presented by DOE witness Swan. The DOE asserts that differing rate treatment must be reserved to account for significant differences in costs and that there is a significant difference in costs between serving customers below 69 kV versus those at and above 69 kV. DOE witness Swan stated that the "proposed HVDS credit, in conjunction with the Rider 8 credit, goes a long way toward reducing the subsidy that was being paid for by high voltage customers." Swan Dir., DOE Ex. 1 CR. The DOE has no objection, in principle, to the extension of Rider HVDS to customers taking service at 34.5 kV and higher with demands of 3 MW and above as proposed by the IIEC, but urges the Commission not to delay approval of the rider as proposed by ComEd should the Commission wish to see additional evidence on this issue and defer the decision regarding 34.5 kV customers.

IIEC Position

IIEC supports ComEd's Rider HVDS and argues that it "very appropriately" recognizes and addresses the lower cost of serving customers at 69 kV and above. IIEC argues that a smaller HVDS credit should be applicable to customers served at 34.5 kV and above with demands of 3 MW and above. The IIEC further recommends that the Rider HVDS credit be phased in with one half the full credit being applied for the first two years, with the full credit level being implemented at the beginning of the third year. IIEC asserts that this approach will fully compensate ComEd, create pricing incentives for proper service voltage but at the same time moderate the negative impact on low voltage customers for a short duration. IIEC asserts that the proposed phase-in period will allow those customers an opportunity to decide on a different voltage level by which to take service, consider service voltage upgrades, and to make other orderly business decisions in an effort to deal with this new rate regime. Although the IIEC asserts: "In any event, it is not likely that there are a large number of customers below 3 MW served at 34.5 kV." IIEC Reply page 22.

Staff Position

Staff supports ComEd's approach of eliminating cross subsidization through an HVDS credit. Staff's Brief at 101.

ARES Position

The ARES Coalition initially argued for a full set of rates based on voltage levels and opposed ComEd's proposed Rider HVDS, but all testimony and argument submitted by the ARES Coalition in support of that position has been withdrawn.

TrizecHahn Position

TrizecHahn initially opposed ComEd's proposed Rider HVDS, but TrizecHahn's testimony and argument in support of that position has been withdrawn.

ComEd Response

ComEd notes that the evidentiary record that Rider HVDS better allocates costs to cost causers and has been correctly calculated -- including the mathematical revision made in ComEd's surrebuttal to reflect the change in status of its largest customer -- is overwhelming and for all practical purposes undisputed. ComEd indicates that proposals to delay or phase in Rider HVDS are unwarranted, especially in light of the much smaller revised credit presented in ComEd's surrebuttal. ComEd states that the proposals to create an HVDS credit for 34.5 kV customers with demands at or above 3 MW are unsound, resting on data as to only a small fraction of ComEd's 34.5 kV customers, with no demonstration that extrapolation logically or factually would be warranted. ComEd notes that, although the IIEC in its reply brief asserts without citing any supporting evidence: In any event, it is not likely that there are a large number of customers below 3 MW served at 34.5 kV (IIEC reply page 22), IIEC's own witness Alan Chalfant admitted on cross that there are more ComEd customers below 3 MW served at 34.5 kV than at or above 3 MW. Chalfant, Tr. 2558-60. ComEd points out that Staff's proposal to express the Rider HVDS credit through rates rather than as a credit is unnecessary and would impose significant burdens and costs on ComEd's information systems for no real benefit to anyone, as discussed in connection with Section II.G.2.

ComEd contends that the evidence simply does not warrant expansion of Rider HVDS to include customers served at 34.5 kV, noting the DOE's observation that "[d]ifferent rate treatment must be reserved to account for significant differences in cost." DOE Brief at 12.

ComEd submitted further evidence in support of the HVDS credit, as revised -- the revisions include revisions of the calculation of the credit to remove customers that are eligible for Rider ZSS - Zero Standard Service, to reflect the allotment of the revenue shortfall associated with the credit among non-residential customer classes, to reflect the jurisdictional revenue requirement of $1,517,000,000 supported by the Movants and by the evidence in the record, and to incorporate a phase-in of the credit -- in its Phase II direct and supplemental rebuttal testimony. ComEd Ex. 115.0, 115.1, 115.2, 115.3. ComEd also submitted the Phase II reply testimony of Paul R. Crumrine (ComEd Ex. 121.0) on certain of the foregoing topics.

Commission Conclusion

The Commission adopts ComEd's proposed Rider HVDS eligibility criteria and rate design as revised in its Phase II supplemental rebuttal testimony and notes that the concept of providing a credit to Rate RCDS for customers served at higher voltage levels enjoys broad support by a majority of the parties. The elements of this credit are cost-based and, accordingly, just and reasonable. The Commission rejects extension of this credit to customers served below 69kV but at or above 34.5kV. The record demonstrates that the costs associated with ComEd servicing this class of customers do not warrant extension of the credit. The Commission is of the opinion that ComEd's proposal properly distinguishes between those customers taking service at and above 69kV and those taking service below 69kV.

b. Calculation of Credit

ComEd Position

In its direct case ComEd proposed calculating the Rider HVDS credit using a marginal cost-based methodology that uses maximum demand to compute, through the use of an integral calculus, the difference in the total $/kW marginal distribution investment cost to provide standard service to load served at or above 69 kV versus load served at lower voltages. ComEd states that a marginal cost-based credit will foster the accurate price signals that are necessary if consumer behavior is to promote efficiency in the market. In its surrebuttal testimony, ComEd refined its calculation of the proposed HVDS credit based on a change in the status of ComEd's largest customer, which had a significant impact on the data and resulted in a material reduction in the size of the credit.

DOE Position

The DOE supports the Company's methodology in calculating the HVDS credit, and is certain that ComEd has calculated the credit correctly. The DOE approves of ComEd's Rate RCDS and Rider HVDS rate design only if the Commission does not adopt the embedded cost-based rates that the Company calculated for Staff in response to discovery requests.

BOMA and TrizecHahn Position

BOMA and TrizecHahn initially raised questions about the calculation of the HVDS credit, but all testimony and argument submitted by them challenging the calculation of the credit has been withdrawn.

IIEC Position

The IIEC recommends that the rates approved by the Commission in this case should include Rider HVDS credits. Those credits should be one-half the full credit level for the first two years, with the full credit level being implemented two years after the new rates take effect.

Staff Position

As an alternative to the credit proposed by ComEd, Staff proposed a high-voltage rate which would be calculated using an embedded COSS, unratcheted demand billing units, and Staff's proposed revenue requirement. Staff witness Luth explained that a single high-voltage rate was simpler than having a standard class distribution facilities charge reduced by the HVDS credit.

In response to ComEd's objections, Staff withdrew its alternative, and recommended a uniform HVDS credit of $3.06039 per kW, adjusted to account for the loss of ComEd's largest customer who qualifies for the HVDS credit. Staff proposes to calculate the uniform credit based upon the difference between the standard distribution facilities charge and the high-voltage rate for each demand-metered delivery services rate class, weighted by the high-voltage demand billing units applicable to each delivery services rate class. Staff's proposed HVDS credit would be calculated according to an embedded COSS, unratcheted demand billing units, and Staff's revenue requirement. In addition, Staff witness Mike Luth's Phase II direct and rebuttal testimony (Staff Exhibits 29.0 and 34.0) discussed the HVDS credit.

ARES Coalition Position

ARES Coalition initially objected to ComEd's calculation of the Rider HVDS credit using only rates for 69kV customers and above, but has now withdrawn its testimony and argument taking that position.

ComEd Response

ComEd suggests that the evidence demonstrates that ComEd correctly calculated the Rider HVDS credit in its direct case and then correctly revised it in light of the new data because of the change in status of its largest customer and that accordingly, no change to the calculation or the associated rate design is warranted.

ComEd contends that the credit is calculated correctly. The computation of the credit provided in ComEd Ex. 50.0, Att. B appropriately uses maximum demands to compute, through the use of integral calculus, the difference in the total $/kW marginal distribution investment costs to provide standard service to load served at or above 69,000 volts versus load served at lower voltages. Alongi-Kelly Tr. 1299:16-1302:17; Alongi-Kelly Sur., ComEd Ex. 50.0, CR, Att. B. ComEd points out that IIEC, which previously questioned the accuracy of ComEd's calculation of the marginal cost credit (Chalfant Dir., IIEC Ex. 2 p. 19:1-11), no longer does so, although it suggests an alternative average replacement cost approach. IIEC's Br. at 24. Moreover, DOE verifies the accuracy of ComEd's calculation, stating that it "is certain that the credit has been calculated correctly...." DOE Br. at 13.

In Phase II, ComEd updated and revised the credit in Phase II, as discussed earlier.

Commission Conclusion

The Commission finds that ComEd appropriately calculated the Rider HVDS credit using maximum demands to compute the difference in the total $/kW marginal distribution investment costs to provide standard service to load served at or above 69kV versus load served below. The Commission notes that the DOE and IIEC approved of ComEd's revised Phase I calculation. As discussed in the preceding section of this Order dealing with Rider ZSS, the Commission finds and concludes that customers that are eligible for Rider ZSS should be removed from the computation of the Rider HVDS credit.

As modified to remove customers eligible for Rider ZSS and otherwise revised, the Commission finds and concludes that ComEd's Rider HVDS proposal is reasonable, is supported by the record, and it is therefore approved.

c. Allocation of Costs to Other Customers

ComEd Position

ComEd submits that its proposed HVDS credit is appropriately revenue neutral. ComEd asserts that it simply eliminates cross-subsidies flowing from high voltage customers to other customers in the existing non-residential rate design, it does not increase ComEd's revenue requirement. In other words, the revenue requirement for any given customer class is correctly based on the cost of serving that class as a whole, accurately reflecting whether some customers in the class are high voltage customers in determining the aggregate costs; the question here simply is whether to eliminate the cross-subsidy within certain classes. Any impacts on other customers simply reflect the reduction of cross-subsidies to them.

Intervenor Positions

DOE agrees that ComEd's proposed credit is revenue neutral and that it appropriately eliminates cross-subsidies, rendering any customer impacts appropriate. IIEC also agrees the credit is revenue neutral and eliminates cross-subsidies, although IIEC favors a short phase-in.

The ARES Coalition, TrizecHahn and BOMA initially raised questions about the allocation of the cost of the HVDS credit, but all testimony and argument submitted by them that is inconsistent with this Order has now been withdrawn.

ComEd Response

ComEd responds that whenever such a subsidy is removed there are always discontinuities and that this does not mean that the subsidy is just or should be continued. ComEd also points to its cost of service studies showing that high voltage customers have paid a significant subsidy over the years, which has benefited customers served at lower rates. ComEd responds that if the cross-subsidy is eliminated then customers served below 69,000 volts properly should have their rates increased because it is more costly to serve customers below 69,000 volts than customers served at or above 69,000 volts. ComEd indicates that the proposed design of the Rider HVDS credit is revenue neutral; ComEd does not profit. The Rider simply assures that high voltage customers' rates better reflect their real costs of service.

Further, ComEd provides a specific customer calculation in its surrebuttal testimony whereby it confirmed that the non-HDVS customer did not experience rate shock because of the CTC offset and actually paid less. Juracek Reb., ComEd Ex. 41.0, pp. 15:374-16:393.

ComEd updated and revised the HVDS credit in Phase II, as noted earlier.

Commission Conclusion

The Commission finds that ComEd demonstrated that it designed and calculated the proposed HVDS credit in a manner that is in accordance with cost causation and appropriately revenue-neutral and approves the credit as revised. Rider HVDS eliminates a subsidy that customers taking service at or above 69 kV have been paying to customers taking service at below 69 kV. The Commission finds that the revenue shortfall associated with the Rider HVDS credit should be spread among other customer classes and should not be constrained to a particular class.

d. Exemption From Rate RCDS Facility Charges

DOE argued that the Commission should approve ComEd's special facilities treatment for qualifying Independent Power Producers ("IPPs") and extend similar treatment to the single operating customer of ComEd taking service at 345 kV. In view of Rider ZSS, which is on file and effective, this issue is moot. Midwest's request to be exempted from certain distribution charges has been addressed above, in Section II.G.1.d, above.

e. Adoption Prior to Bundled Rate Tariff Change

BOMA and ARES Coalition initially argued that implementation of Rider HVDS should be postponed until 2005, but the testimony and argument they submitted advocating this position has now been withdrawn.

ComEd states that it provided extensive cost analysis to support the finding that the HVDS credit is justified and correctly calculated. Second, Section 16-108(c) of the Act, 220 ILCS 5/16-108(c), entitles ComEd to delivery services charges that are "cost based, and … allow the electric utility to recover the costs of providing delivery services through its charges to its delivery service customers that use the facilities and services associated with such costs." The Company argues that there is no valid legal or factual ground for deviating from Section 16-108(c)'s mandate based on the theory that ComEd's bundled rates do not contain the same HVDS credit and instead contain the existing smaller Rider 11 high voltage credit.

Commission Conclusion

ComEd and the other Movants now support or do not oppose a phase-in approach using the following schedule: 25% beginning with the June 2003 monthly billing period, 50% beginning with the June 2004 monthly billing period; 75% beginning with the June 2005 monthly billing period, and 100% beginning with the June 2006 monthly billing period. The Commission finds that this phase-in approach and schedule are reasonable, are supported by the evidence in the record, and they are therefore approved.

3. Rider ISS

ComEd's Rider ISS was approved by the Commission in its Interim Order and became effective on May 1, 2002. No further issues concerning Rider ISS are presented here. The Commission adheres to its prior determination.

4. Rider PPO -- Residential Customer Eligibility and Monthly Administration Charges for Nonresidential Customers

As indicated in the Interim Order, residential customers are not eligible for Rider PPO. The Commission adheres to that determination.

In the Phase I Direct testimony of Lawrence Alongi and Sharon Kelly, ComEd described the Rider PPO Monthly Administration Charge designed to recover costs incurred by ComEd to administer nonresidential retail customer power purchase option accounts. ComEd Ex. 13.0 CR at 42-44. Attachment K to ComEd Ex. 13.0 sets forth specific administration costs for various categories of nonresidential customers and shows how the specific proposed charges were calculated. ComEd Ex. 13.0 CR, Attachment K. No party has opposed these charges. The Commission finds that the charges are reasonable, supported by the record evidence and are, therefore, approved.

5. SBO Credit

This issue was resolved in the Interim Order. The Commission adheres to its prior determination.

6. Metering Service Charge (Credit)

This issue was resolved in the Interim Order. The Commission adheres to its prior determination.

7. Rider TS – Transmission Services

In accordance with the Interim Order, ComEd's Rider TS is now in effect and, regarding this proceeding, there are no issues to resolve with respect to it. The Commission adheres to its prior determination.

8. 24-Month Return to Bundled Service Requirements

This issue was resolved in the Interim Order. The Commission adheres to its prior determination.

III. Terms and Conditions Issues

A. SBO Credit Eligibility (Customers With Past Due Bundled Service Balances)

This issue was resolved in the Interim Order. The Commission adheres to its prior determination.

B. Enrollment Issues

1. Term of Service

This issue was resolved in the Interim Order. The Commission adheres to its prior determination.

C. Release and Use of Customer Specific Information

This issue was resolved in the Interim Order. The Commission adheres to its prior determination.

D. Off-Cycle or Non-Standard Switching for Residential Customers

This issue was resolved in the Interim Order. The Commission adheres to its prior determination.

E. General Account Agency Issues

In accordance with the Interim Order, ComEd's proposed tariff provisions regarding General Account Agents as revised are now in effect and, regarding this proceeding, there are no issues to resolve with respect to them. The Commission adheres to its prior determination.

F. Value-Added Aggregation Services

This issue was resolved in the Interim Order. The Commission adheres to its prior determination.

IV. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having reviewed the entire record herein, is of the opinion and finds that:

(1) ComEd is engaged in the transmission, sale, and delivery of electricity to the public in the State of Illinois, and is a "public utility" as defined in Section 3-105 of the Act and an electric utility as defined in Section 16-102 of the Act;

(2) the Commission has jurisdiction of ComEd and of the subject matter hereof;

(3) the recitals and facts and conclusions reached in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact;

(4) the test year for the determination of the delivery services rates approved herein is the 12 month period ended December 31, 2000, with appropriate adjustments; this test year is appropriate for purposes of this proceeding;

(5) for purposes of this proceeding, ComEd's net jurisdictional delivery services rate base is $3,616,659,000 ComEd's investment in its jurisdictional rate base is reasonable, was prudently incurred, and is used and useful;

(6) for purposes of this proceeding, ComEd's jurisdictional operating expenses before income taxes is $1,114,031,000. The costs included in this amount are reasonable and were prudently incurred;

(7) for purposes of this proceeding, ComEd's jurisdictional delivery services revenue requirement is $1,507,636,000 (not including ComEd's Other Revenues of $54,799,000); the delivery services costs included in this revenue requirement are reasonable and were prudently incurred;

(8) a just and reasonable rate of return which ComEd should be allowed to earn on its net jurisdictional delivery services rate base is 8.99%;

(9) the proposed revisions to ComEd's Delivery Service Tariffs and Riders, as modified by agreement during the course of these proceedings or as further directed in the prefatory portion of this Order, are hereby deemed to be just and reasonable, and ComEd is directed to place these tariff sheets into effect and the tariff sheets shall be applicable beginning with the beginning of the June 2003 monthly billing period;

(10) the cost of service, class revenue allocation and rate design conclusions reached in the prefatory portion of this Order are just and reasonable, and the delivery services tariffs filed by ComEd shall be consistent therewith;

(11) the rates contained in the tariffs filed pursuant to this Order shall be designed to recover the revenue requirement approved in this Order pursuant to the methodology described in the prefatory portion of this Order;

(12) ComEd shall file the new tariff sheets authorized to be filed by this Order within 10 days of the date of this Order or at such time as may be necessary to render the new tariff sheets applicable beginning with the beginning of the June 2003 monthly billing period, as provided in paragraph 8 above;

(13) ComEd shall include a copy of the modified Delivery Service Implementation Plan with the compliance tariff filing.

IT IS THEREFORE ORDERED that ComEd is hereby authorized and directed to file new tariff sheets comprised of delivery services tariffs containing terms and provisions consistent with and reflective of the findings and determinations contained herein.

IT IS FURTHER ORDERED that ComEd shall comply with all Findings of this Order.

IT IS FURTHER ORDERED that any objections or motions in this proceeding which have not been ruled upon hereby deemed disposed of in a manner consistent with the ultimate conclusions herein contained.

IT IS FURTHER ORDERED that this Order is final, and is not subject to the Administrative Review Law.

DATED:	March 21, 2003
BRIEFS ON EXCEPTIONS DUE:	March 24, 2003 (4:00 p.m.)
REPLIES TO EXCEPTIONS DUE:	March 26, 2003 (12:00 noon)

Erin O'Connell-Diaz
Administrative Law Judge

Commonwealth Edison Company
Statement of Operating Income with Adjustments
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Company Pro Forma (ComEd Ex. 4.0 Sch. C-1)	Adjustments (Appendix A Sch. 2)	Adjusted Company Pro Forma (Cols. B+C)	Adjustment To Company's Proposed Revenues	Pro Forma Proposed (Cols. D+E)
	(A)	(B)	(C)	(D)	(E)	(F)
1	Operating Revenues	$ 1,786,970	-	$ 1,786,970	$ (279,334)	$ 1,507,636
2	Other Revenues	54,799	-	54,799	-	54,799
3	Total Operating Revenues	1,841,769	-	1,841,769	(279,334)	1,562,435
4	Uncollectible Expense	16,300	-	16,300	(2,891)	13,409
5	Production	432	-	432	-	432
6	Distribution	418,141	(103,678)	314,463	-	314,463
7	Customer Accounts	166,136	(12,914)	153,222	-	153,222
8	Customer Service and Informational	12,217	(7)	12,210	-	12,210
9	Administrative and General	200,663	(23,979)	176,684	-	176,684
10	Depreciation and Amortization	299,127	(9,575)	289,552	-	289,552
11	Taxes Other than Income Taxes	154,826	(785)	154,041	-	154,041
12	Total Operating Expense					
13	Before Income Taxes	1,267,842	(150,938)	1,116,904	(2,891)	1,114,013
14	State Income Tax	33,952	11,655	45,607	(19,572)	26,035
15	Federal Income Tax	155,958	53,530	209,488	(89,905)	119,583
16	Deferred Taxes and ITCs Net	(22,334)	-	(22,334)	-	(22,334)
17	Total Operating Expenses	1,435,418	(85,753)	1,349,665	(112,368)	1,237,297
18	NET OPERATING INCOME	$ 406,351	$ 85,753	$ 492,104	$ (166,966)	$ 325,138
19	Rate Base (Appendix A, Schedule 3, Column (D))					$ 3,616,659
20	Overall Rate of Return (ICC Staff Exhibit 27.0, Schedule 27.1)					8.99%
21	Revenue Change (Col. (F), Line 3 minus Col. (B), Line 3)					$ (279,334)
22	Percentage Change to Company Proposed Revenues (Col. (F), Line 21 divided by Col. (B), Line 3)					-15.17%

Commonwealth Edison Company
Adjustments to Operating Income
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Interest Synchronization (Appendix A Sch. 5)	Retired Plant (St. Ex. 1.0 Sch. 1.1)	Replaced Plant (St. Ex. 1.0 Sch. 1.2)	Interest On Customer Deposits (St. Wx. 2.0 Sch 2.2)	Plant Placed in Service 2nd Quarter 2001 (St. Ex. 15.0CT2 Sch. 15.1)	Collection Agency Expense (St. Ex. 2.0 Sch. 2.4)	State Use Tax Expense (St. Ex. 2.0 Sched. 2.5)	Subtotal Operating Statement Adjustments
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
1	Operating Revenues	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2	Other Revenues	-	-	-	-	-	-	-	-
3	Total Operating Revenues	-	-	-	-	-	-	-	-
4	Uncollectible Expense	-	-	-	-		-	-	-
5	Production	-	-	-	-	-	-	-	-
6	Distribution	-	-	-	-	-	-	-	-
7	Customer Accounts	-	-	-	-	-	(1,106)	-	(1,106)
8	Customer Service and Informational	-	-	-	-	-	-	-	-
9	Administrative and General	-	-	-	(919)	-	-	-	(919)
10	Depreciation and Amortization	-	(858)	(279)	-	(277)	-	-	(1,414)
11	Taxes Other than Income Taxes	-	-	-	-	-	-	(506)	(506)
12	Total Operating Expense								
13	Before Income Taxes	-	(858)	(279)	(919)	(277)	(1,106)	(506)	(3,945)
								-	
14	State Income Tax	966	61	20	65	20	78	36	1,246
15	Federal Income Tax	4,439	279	91	299	90	360	165	5,723
16	Deferred Taxes and ITCs Net	-	-	-	-	-	-	-	-
17	Total Operating Expenses	5,405	(518)	(168)	(555)	(167)	(668)	(305)	3,024
18	NET OPERATING INCOME	$ (5,405)	$ 518	$ 168	$ 555	$ 167	$ 668	$ 305	$ (3,024)

Commonwealth Edison Company
Adjustments to Operating Income
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Subtotal	Tree Management Expense (GC Ex. 2.1 Sch. DJE 2.1)	Employee Layoffs (St. Ex. 17.0 Sch. 17.10)	Salary & Wages Inc. Comp (St. Ex. 17.0 Sch. 17.11)	Salary & Wages Inc. Comp (St. Ex. 17.0 Sch. 17.11)	Payroll Tax Per Order	Storm Restoration Expense (St. Ex. 17.0 Sched. 17.7)	Subtotal Operating Statement Adjustments
	(A)	(J)	(K)	(L)	(M)	(N)	(O)	(P)	(Q)
1	Operating Revenues	$ -	$ -	$ -			$ -	$ -	$ -
2	Other Revenues	-	-	-	-	-	-	-	-
3		-	-	-	-	-	-	-	-
4	Uncollectible Expense	-	-	-	-	-	-	-	-
5	Production	-	-	-	-	-	-	-	-
6	Distribution	-	(4,703)	-	-	(12,380)	-	(5,771)	(22,854)
7	Customer Accounts	(1,106)	-	(8,096)	-	-	-	-	(9,202)
8	Customer Service and Informational	-	-	-	-	-	-	-	-
9	Administrative and General	(919)	-	-	(12,181)	-	-	-	(13,100)
10	Depreciation and Amortization	(1,414)	-	-	-	-	-	-	(1,414)
11	Taxes Other than Income Taxes	(506)	-	-	-	-	(3,392)	-	(3,898)
12	Total Operating Expense								
13	Before Income Taxes	(3,945)	(4,703)	(8,096)	(12,181)	(12,380)	(3,392)	(5,771)	(50,468)
14	State Income Tax	1,246	333	573	862	877	240	409	4,540
15	Federal Income Tax	5,723	1,530	2,633	3,962	4,026	1,103	1,877	20,854
16	Deferred Taxes and ITCs Net	-	-	-	-	-	-	-	-
17	Total Operating Expenses	3,024	(2,840)	(4,890)	(7,357)	(7,477)	(2,049)	(3,485)	(25,074)
18	NET OPERATING INCOME	$ (3,024)	$ 2,840	$ 4,890	$ 7,357	$ 7,477	$ 2,049	$ 3,485	$ 25,074

Commonwealth Edison Company
Adjustments to Operating Income
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Subtotal	Bill Payment Center Closings (St. Ex. 17.0 Sch. 17.8)	Charitable Contributions (St. Ex. 4.0 Sch. 4.1)	Advertising Expense (St. Ex. 18.0 Sch. 18.1)	Bank Commitment Fees (St. Ex. 4.0 Sch. 4.3)	Social & Service Club Dues (St. Ex. 18.0 Sch. 18.2)	Research & Development (St. Ex. 4.0 Sch. 4.6)	Subtotal Operating Statement Adjustments
	(A)	(R)	(S)	(T)	(U)	(V)	(W)	(X)	(Y)
1	Operating Revenues	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2	Other Revenues	-	-	-	-	-	-	-	-
3	Total Operating Revenues	-	-	-	-	-	-	-	-
4	Uncollectible Expense	-	-	-	-	-	-	-	-
5	Production	-	-	-	-	-	-	-	-
6	Distribution	(22,854)	-	-	-	-	-	-	(22,854)
7	Customer Accounts	(9,202)	(765)	-	-	-	-	-	(9,967)
8	Customer Service and Informational	-	-	-	-	-	-	-	-
9	Administrative and General	(13,100)	-	(110)	(1,199)	(902)	(15)	(3,529)	(18,855)
10	Depreciation and Amortization	(1,414)	-	-	-	-	-	-	(1,414)
11	Taxes Other than Income Taxes	(3,898)	-	-	-	-	-	-	(3,898)
12	Total Operating Expense								
13	Before Income Taxes	(50,468)	(765)	(110)	(1,199)	(902)	(15)	(3,529)	(56,988)
14	State Income Tax	4,540	54	8	85	64	1	250	5,002
15	Federal Income Tax	20,854	249	36	390	293	5	1,148	22,975
16	Deferred Taxes and ITCs Net	-	-	-	-	-	-	-	-
17	Total Operating Expenses	(25,074)	(462)	(66)	(724)	(545)	(9)	(2,131)	(29,011)
18	NET OPERATING INCOME	$ 25,074	$ 462	$ 66	$ 724	$ 545	$ 9	$ 2,131	$ 29,011

Commonwealth Edison Company
Adjustments to Operating Income
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Subtotal	Real Estate Tax Expense Accrual True-up (Ex GC 5.1 Sch. DJE-4R)	Contractors' Premiums	Overtime	Distribution Salaries & Wages (St. Ex. 17.0 Sch. 17.12)	Legal	Labor Allocator	Subtotal Operating Statement Adjustments
	(A)	(Z)	(AA)	(BB)	(CC)	(DD)	(EE)	(FF)	(GG)
1	Operating Revenues	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2	Other Revenues	-	-	-	-	-	-	-	-
3	Total Operating Revenues	-	-	-	-	-	-	-	-
4	Uncollectible Expense	-	-	-	-	-	-	-	-
5	Production	-	-	-	-	-	-	-	-
6	Distribution	(22,854)	-	-	-	(9,739)	-	-	(32,593)
7	Customer Accounts	(9,967)	-	-	-	-	-	-	(9,967)
8	Customer Service and Informationa	-	-	-	-	-	-	-	-
9	Administrative and General	(18,855)	-	-	-	-	-	-	(18,855)
10	Depreciation and Amortization	(1,414)	-	-	-	-	-	-	(1,414)
11	Taxes Other than Income Taxes	(3,898)	(1,854)	-	-	-	-	-	(5,752)
12	Total Operating Expense								
13	Before Income Taxes	(56,988)	(1,854)	-	-	(9,739)	-	-	(68,581)
14	State Income Tax	5,002	131	-	-	690	-	-	5,823
15	Federal Income Tax	22,975	603	-	-	3,167	-	-	26,745
16	Deferred Taxes and ITCs Net	-	-	-	-	-	-	-	-
17	Total Operating Expenses	(29,011)	(1,120)	-	-	(5,882)	-	-	(36,013)
18	NET OPERATING INCOME	$ 29,011	$ 1,120	$ -	$ -	$ 5,882	$ -	$ -	$ 36,013

Commonwealth Edison Company
Adjustments to Operating Income
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Subtotal	NW Project Variance (ComEd IB App. A, Sch. C-2)	Ill Electricity Distribution Tax Ave. Refun (ComEd 1B Sch. C-2, Col f)	Ill Electricity Distribution Tax Accrual True-Up (ComEd 1B Sch. C-2, Col g)				Subtotal Operating Statement Adjustments
	(A)	(HH)	(II)	(JJ)	(KK)	(LL)	(MM)	(NN)	(OO)
1	Operating Revenues	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2	Other Revenues	-	-	-	-	-	-	-	-
3	Total Operating Revenues	-	-	-	-	-	-	-	-
4	Uncollectible Expense	-	-	-	-	-	-	-	-
5	Production	-	-	-	-	-	-	-	-
6	Distribution	(32,593)	-	-	-	-	-	-	(32,593)
7	Customer Accounts	(9,967)	-	-	-	-	-	-	(9,967)
8	Customer Service and Informational	-	-	-	-	-	-	-	-
9	Administrative and General	(18,855)	-	-	-	-	-	-	(18,855)
10	Depreciation and Amortization	(1,414)	(14)	-	-	-	-	-	(1,428)
11	Taxes Other than Income Taxes	(5,752)	-	1,192	3,775	-	-	-	(785)
12	Total Operating Expense								
13	Before Income Taxes	(68,581)	(14)	1,192	3,775	-	-	-	(63,628)
14	State Income Tax	5,823	1	(84)	(267)	-	-	-	5,473
15	Federal Income Tax	26,745	5	(388)	(1,228)	-	-	-	25,134
16	Deferred Taxes and ITCs Ne	-	-	-	-	-	-	-	-
17	Total Operating Expenses	(36,013)	(8)	720	2,280	-	-	-	(33,021)
18	NET OPERATING INCOME	$ 36,013	$ 8	$ (720)	$ (2,280)	$ -	$ -	$ -	$ 33,021

Commonwealth Edison Company
Adjustments to Operating Income
For the Test Year Ending December 31, 2000
(Thousands)

			Incremental Liberty Audit Report Adjustments						
Line No.	Description	Subtotal	Distribution Expense (net) Adjustment	Customer Service Expense (net) Adjustment	Admin & General Expense (net) Adjustment	Depreciation Expense (net) Adjustment	Correction of Distribution O&M Global Adjustment Double-count	Incentive Compensation Capitalized - Depreciation Exp	Total Operating Statement Adjustments
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(j)	(k)
1	Operating Revenues	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2	Other Revenues	-	-	-	-	-	-	-	-
3	Total Operating Revenues	-	-	-	-	-	-	-	-
4	Uncollectible Expense	-	-	-	-	-	-	-	-
5	Production	-	-	-	-	-	-	-	-
6	Distribution	(32,593)	(79,985)	-	-	-	8,900	-	(103,678)
7	Customer Accounts	(9,967)	-	(2,947)	-	-	-	-	(12,914)
8	Customer Service and Informational	-	-	(7)	-	-	-	-	(7)
9	Administrative and General	(18,855)	-	-	(5,124)	-	-	-	(23,979)
10	Depreciation and Amortization	(1,428)	-	-	-	(8,526)	-	379	(9,575)
11	Taxes Other than Income Taxes	(785)	-	-	-	-	-	-	(785)
12	Total Operating Expense								
13	Before Income Taxes	(63,628)	(79,985)	(2,954)	(5,124)	(8,526)	8,900	379	(150,938)
14	State Income Tax	5,473	5,663	209	363	604	(630)	(27)	11,655
15	Federal Income Tax	25,134	26,013	961	1,666	2,773	(2,894)	(123)	53,530
16	Deferred Taxes and ITCs Net	-	-	-	-	-	-	-	-
17	Total Operating Expenses	(33,021)	(48,309)	(1,784)	(3,095)	(5,149)	5,376	229	(85,753)
18	NET OPERATING INCOME	$ 33,021	$ 48,309	$ 1,784	$ 3,095	$ 5,149	$ (5,376)	$ (229)	$ 85,753

Docket No. 01-0423
Appendix A
Schedule 3

Commonwealth Edison Company
Rate Base
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Company Pro Forma Rate Base (ComEd Ex. 4.0 Sch. B-1)	Adjustments (Appendix A Sch. 4)	Pro Forma Rate Base (Col. B+C)
	(A)	(B)	(C)	(D)
1	Distribution Plant	$ 8,370,615	$ (299,072)	$ 8,071,543
2	General and Intangible Plant	850,351	(403,760)	446,591
3	Accumulated Depreciation - Distribution Plant	(3,821,634)	297,514	(3,524,120)
4	Accumulated Depreciation - General and Intangible Plant	(224,207)	971	(223,236)
5	Net Plant	5,175,125	(404,347)	4,770,778
6	Additions to Rate Base			
7	Materials and Supplies Inventories	36,479	-	36,479
8	Construction Work in Progress	20,813	-	20,813
9	Regulatory Assets	6,161	-	6,161
10	Deductions From Rate Base			
11	Accumulated Deferred Income Taxes	(765,927)	(62,921)	(828,848)
12	Customer Deposits	(17,856)	-	(17,856)
13	Budget Payment Plan Balances	-	-	-
14	Customer Advances	(325)	-	(325)
15	Other Deferred Credits	(9,820)	-	(9,820)
16	Accumulated Investment Tax Credits	(254)	-	(254)
17	Operating Reserves	(360,469)	-	(360,469)
18	Rate Base	$ 4,083,927	$ (467,268)	$ 3,616,659

Commonwealth Edison Company
Adjustments to Rate Base
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Retired Plant (St. Ex. 1.0 Sch. 1.1)	Retired Plant (St. Ex. 1.0 Sch. 1.1)	Replaced Plant (St. Ex. 1.0 Sch. 1.2)	Replaced Plant (St. Ex. 1.0 Sch. 1.2)	NW Project Variance (ComEd IB App. A, Sch. B-2)	NW Project Variance (ComEd IB App. A, Sch. B-2)	NW Project Variance (ComEd IB App. A Sch. B-1)	Subtotal Rate Base Adjustments
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
1	Distribution Plant	$ (32,157)	$ -	$ (11,060)	$ -	$ -	$ -	$ (1,014)	$ (44,231)
2	General and Intangible Plant	-	-	-	-	-	-	-	-
3	Accumulated Depreciation - Distribution Plant	-	32,157	-	11,060	14	-	-	43,231
4	Accumulated Depreciation - General and Intangible Plant	-	-	-	-	-	-	-	-
5	Net Plant	(32,157)	32,157	(11,060)	11,060	14	-	(1,014)	(1,000)
6	Additions to Rate Base								-
7	Materials and Supplies Inventories	-	-	-	-	-	-	-	-
8	Construction Work in Progress	-	-	-	-	-	-	-	-
9	Regulatory Assets	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
10	Deductions From Rate Base	-	-	-	-	-	-	-	-
11	Accumulated Deferred Income Taxes	-	-	-	-	-	10	-	10
12	Customer Deposits	-	-	-	-	-	-	-	-
13	Budget Payment Plan Balances	-	-	-	-	-	-	-	-
14	Customer Advances	-	-	-	-	-	-	-	-
15	Other Deferred Credits	-	-	-	-	-	-	-	-
16	Accumulated Investment Tax Credits	-	-	-	-	-	-	-	-
17	Operating Reserves	-	-	-	-	-	-	-	-
18	Rate Base	$ (32,157)	$ 32,157	$ (11,060)	$ 11,060	$ 14	$ 10	$ (1,014)	$ (990)

Commonwealth Edison Company
Adjustments to Rate Base
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Subtotal	Plant Placed in Service 2nd Quarter 2001 (St. Ex. 15.0CT2 Sch. 15.1)	Contractors' Premiums	Contractors' Premiums	Contractors' Premiums	Overtime	Overtime	Subtotal Rate Base Adjustments
	(A)	(J)	(K)	(L)	(M)	(N)	(O)	(P)	(Q)
1	Distribution Plant	$ (44,231)	$ (11,038)	$ -	$ -	$ -	$ -	$ -	$ (55,269)
2	General and Intangible Plant	-	-	-	-	-	-	-	-
3	Accumulated Depreciation - Distribution Plant	43,231	277	-	-	-	-	-	43,508
4	Accumulated Depreciation - General and Intangible Plant	-	-	-	-	-	-	-	-
5	Net Plant	(1,000)	(10,761)	-	-	-	-	-	(11,761)
6	Additions to Rate Base								-
7	Materials and Supplies Inventories	-	-	-	-	-	-	-	-
8	Construction Work in Progress	-	-	-	-	-	-	-	-
9	Regulatory Assets	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
10	Deductions From Rate Base	-	-	-	-	-	-	-	-
11	Accumulated Deferred Income Taxes	10	52	-	-	-	-	-	62
12	Customer Deposits	-	-	-	-	-	-	-	-
13	Budget Payment Plan Balances	-	-	-	-	-	-	-	-
14	Customer Advances	-	-	-	-	-	-	-	-
15	Other Deferred Credits	-	-	-	-	-	-	-	-
16	Accumulated Investment Tax Credits	-	-	-	-	-	-	-	-
17	Operating Reserves	-	-	-	-	-	-	-	-
18	Rate Base	$ (990)	$ (10,709)	$ -	$ -	$ -	$ -	$ -	$ (11,699)

Docket No. 01-0423
Appendix A
Schedule 4

Commonwealth Edison Company
Adjustments to Rate Base
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Subtotal	Overtime (St. Ex. 15.0CT2 Sch. 15.3)	Labor Allocator (St. Ex. 19.0 Sch. 19.2 p.2)	Labor Allocator (St. Ex. 19.0 Sch. 19.2 p.2)	Labor Allocator (St. Ex. 19.0 Sch. 19.2 p.2)	Corrections to ADIT Balance (ComEd IB App. A Sch. B-1) (1)		Subtotal Rate Base Adjustments
	(A)	(R)	(S)	(T)	(U)	(V)	(W)	(X)	(Y)
1	Distribution Plant	$ (55,269)	$ -	$ -	$ -	$ -	$ -	$ -	$ (55,269)
2	General and Intangible Plant	-		(405,161)					(405,161)
3	Accumulated Depreciation - Distribution Plant	43,508							43,508
4	Accumulated Depreciation - General and Intangible Plant	-	-	-	1,035	-	-	-	1,035
5	Net Plant	(11,761)	-	(405,161)	1,035	-	-	-	(415,887)
6	Additions to Rate Base								-
7	Materials and Supplies Inventories	-	-	-	-	-	-	-	-
8	Construction Work in Progress	-	-	-	-	-	-	-	-
9	Regulatory Assets	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
10	Deductions From Rate Base	-	-	-	-	-	-	-	-
11	Accumulated Deferred Income Taxes	62	-	-	-	556	(64,504)		(63,886)
12	Customer Deposits	-	-	-	-	-	-	-	-
13	Budget Payment Plan Balances	-	-	-	-	-	-	-	-
14	Customer Advances	-	-	-	-	-	-	-	-
15	Other Deferred Credits	-	-	-	-	-	-	-	-
16	Accumulated Investment Tax Credits	-	-	-	-	-	-	-	-
17	Operating Reserves	-	-	-	-	-	-	-	-
18	Rate Base	$ (11,699)	$ -	$ (405,161)	$ 1,035	$ 556	$ (64,504)	$ -	$ (479,773)

Commonwealth Edison Company
Adjustments to Rate Base
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Subtotal	True-up to Actual Costs of 2Q 2001 Projects	Adjustments To Northwest Project	Adjustment To Emergency Work Orders	Unrecorded Retirements	New Depreciation Method	(Source)	Subtotal Rate Base Adjustments
	(A)	(Z)	(AA)	(BB)	(CC)	(DD)	(EE)	(FF)	(GG)
1	Distribution Plant	$ (55,269)	$ 1,890	$ (2,418)	$ (918)	$ (128,371)	$ (123,821)	$ -	$ (308,907)
2	General and Intangible Plant	(405,161)							(405,161)
3	Accumulated Depreciation - Distribution Pla	43,508	-						43,508
4	Accumulated Depreciation - General and Int	1,035	-	-	-	-	-	-	1,035
5	Net Plant	(415,887)	1,890	(2,418)	(918)	(128,371)	(123,821)	-	(669,525)
6	Additions to Rate Base								-
7	Materials and Supplies Inventories	-	-	-	-	-	-	-	-
8	Construction Work in Progress	-	-	-	-	-	-	-	-
9	Regulatory Assets	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-
10	Deductions From Rate Base	-	-	-	-	-	-	-	
11	Accumulated Deferred Income Taxes	(63,886)	-	-	-	-	-	-	(63,886)
12	Customer Deposits	-	-	-	-	-	-	-	-
13	Budget Payment Plan Balances	-	-	-	-	-	-	-	-
14	Customer Advances	-	-	-	-	-	-	-	-
15	Other Deferred Credits	-	-	-	-	-	-	-	-
16	Accumulated Investment Tax Credits	-	-	-	-	-	-	-	-
17	Operating Reserves	-	-	-	-	-	-	-	-
18	Rate Base	$ (479,773)	$ 1,890	$ (2,418)	$ (918)	$ (128,371)	$ (123,821)	$ -	$ (733,411)

Commonwealth Edison Company
Adjustments to Rate Base
For the Test Year Ending December 31, 2000
(Thousands)

			Incremental Liberty Audit Report Adjustments to Rate Base						
					Audit Report Corrections				
Line No.	Description	Company Pro Forma Rate Base (Source)	Acumulated Depreciation Effects (Source)	Accumulated Dfrd Inc Tax Effects (Source)	Add Depr Effect for New Depr. Rate	Capitalization of Incentive Compensation	(Source)	(Source)	Total Rate Base Adjustments
	(a)	(af)	(ag)	(ah)	(ai)	(aj)	(ak)	(al)	(ao)
1	Distribution Plant	$ (308,907)	$ -	$ -	$ -	$ 9,835	$ -	$ -	$ (299,072)
	General and Intangible Plant	(405,161)	-	-	-	1,401	-	-	(403,760)
	Accumulated Depreciation - Distribution Plant	43,508	254,321	-	-	(315)	-	-	297,514
2	Accumulated Depreciation - General and Inta	1,035	-	-	-	(64)	-	-	971
3	Net Plant	(669,525)	254,321	-	-	10,857	-	-	(404,347)
4	Additions to Rate Base								-
5	Materials and Supplies Inventories	-	-	-	-	-	-	-	-
6	Construction Work in Progress	-	-	-	-	-	-	-	-
7	Regulatory Assets	-	-	-	-	-	-	-	-
8		-	-	-	-	-	-	-	-
9		-	-	-	-	-	-	-	-
10		-	-	-	-	-	-	-	-
11		-	-	-	-	-	-	-	-
12		-	-	-	-	-	-	-	-
13		-	-	-	-	-	-	-	-
14		-	-	-	-	-	-	-	-
15	Deductions From Rate Base	-	-	-	-	-	-	-	-
16	Accumulated Deferred Income Taxes	(63,886)	-	1,136	-	(171)	-	-	(62,921)
17	Customer Deposits	-	-	-	-	-	-	-	-
18	Budget Payment Plan Balances	-	-	-	-	-	-	-	-
19	Customer Advances	-	-	-	-	-	-	-	-
20	Other Deferred Credits	-	-	-	-	-	-	-	-
21	Accumulated Investment Tax Credits	-	-	-	-	-	-	-	-
	Operating Reserves								
22	Rate Base	$ (733,411)	$ 254,321	$ 1,136	$ -	$ 10,686	$ -	$ -	$ (467,268)

Docket No. 01-0423
Appendix A
Schedule 5

Commonwealth Edison Company
Interest Synchronization Adjustment
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Amount	
	(A)	(B)	
1	Distribution Plant	$ 3,616,659	(1)
2	Weighted Cost of Debt	3.97%	(2)
3	Synchronized Interest	143,581	
4	Company Interest Expense	157,231	(3)
5	Increase (Decrease) in Interest Expense	(13,650)	
6	Increase (Decrease) in State Income Tax Expense		
7	at 7.080%	$ 966	
8	Increase (Decrease) in Federal Income Tax Expense		
9	at 35.000%	$ 4,439	
10	Sources:		
11	(1) Source: ICC Staff Reply Brief, Appendix A, Schedule 3.		
12	(2) Source: ICC Staff Exhibit 12.0, Schedule 12.1.		
13	(3) Source: ComEd 4.0, Schedule C-3.4, line 3.		

Docket No. 01-0423
Appendix A
Schedule 6

Commonwealth Edison Company
Gross Revenue Conversion Factor
For the Test Year Ending December 31, 2000
(Thousands)

Line No.	Description	Rate	Per Staff With Bad Debts	Per Staff Without Bad Debts
	(A)	(B)	(C)	(D)
1	Revenues		1.000000	
2	Uncollectibles	0.71%	0.007100	
3	State Taxable Income		0.992900	1.000000
4	State Income Tax	7.08%	0.070297	0.070800
5	Federal Taxable Income		0.922603	0.929200
6	Federal Income Tax	35.00%	0.322911	0.325220
7	Operating Income		0.599692	0.603980
8	Gross Revenue Conversion Factor		1.667523	1.655684